

# 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 Workers Benefit

**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), 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 2019 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 2019 taxation year in respect of the amounts of \$1,355, \$2,335, \$12,820, \$17,025, \$700, \$24,111, and \$36,483.**

**2 (1) The descriptions of A and B in subsection 122.7(2) of the Act are replaced by the following:**

A is

**(a)** if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, the lesser of \$1,355 and 26% of the amount, if any, by which the individual’s working income for the taxation year exceeds \$3,000, or

**(b)** if the individual had an eligible spouse or an eligible dependant, for the taxation year, the lesser of \$2,335 and 26% of the amount, if any, by which the total of the working incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds \$3,000; and

B is

**(a)** if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 12% of the amount, if any, by which the adjusted net income of the individual for the taxation year exceeds \$12,820, or

**(b)** if the individual had an eligible spouse or an eligible dependant, for the taxation year, 12% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds \$17,025.

**(2) The descriptions of C and D in subsection 122.7(3) of the Act are replaced by the following:**

C is the lesser of \$700 and 26% of the amount, if any, by which the individual’s working income for the taxation year exceeds \$1,150; and

D is

**(a)** if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 12% of the amount, if any, by which the individual’s adjusted net income for the taxation year exceeds \$24,111,

(b) if the individual had an eligible spouse for the taxation year who was not entitled to deduct an amount under subsection 118.3(1) for the taxation year, or had an eligible dependant for the taxation year, 12% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds \$36,483, or

(c) if the individual had an eligible spouse for the taxation year who was entitled to deduct an amount under subsection 118.3(1) for the taxation year, 6% of the amount, if any, by which the total of the adjusted net incomes of the individual and of the eligible spouse, for the taxation year, exceeds \$36,483.

**(3) Subsections (1) and (2) come into force on January 1, 2019.**

**3 Sections 67 and 69 of the Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act are repealed and are deemed to have never come into force.**

**4 The Act is further modified to give effect to the proposals relating to improving access to the Canada Workers Benefit described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

## Medical Expense Tax Credit – Eligible Expenditures

**5 (1) The portion of paragraph 118.2(2)(I) of the Act before subparagraph (ii) is replaced by the following:**

(I) on behalf of the patient who is blind or profoundly deaf or has severe autism, severe diabetes, severe epilepsy, severe mental impairment or a severe and prolonged impairment that markedly restricts the use of the patient's arms or legs,

(i) for an animal that is

(A) specially trained to

(I) in the case of severe mental impairment, perform specific tasks (excluding, for greater certainty, the provision of emotional support) that assist the patient in coping with the impairment, and

(II) in all other cases, assist the patient in coping with the impairment, and

(B) provided by a person or organization one of whose main purposes is such training of animals,

**(2) Subsection (1) applies in respect of expenses incurred after 2017.**

## Registered Disability Savings Plan – Qualifying Plan Holders

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

(B.1) if the arrangement is entered into before 2024, a qualifying family member in relation to the beneficiary who, at the time the arrangement is entered into, is a qualifying person in relation to the beneficiary,

## Deductibility of Employee Contributions to the Enhanced Portion of the Quebec Pension Plan

**7 (1) Clause 60(e)(ii)(A) of the Act is replaced by the following:**

(A) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under subsection 10(1.1) or (1.2) of the *Canada Pension Plan* or as a like contribution under a *provincial pension plan*, as defined in section 3 of that Act, and

**(2) Subparagraph 60(e.1)(i) of the Act is replaced by the following:**

(i) the total of all amounts each of which is an amount payable by the taxpayer for the year as an employee's contribution under subsection 8(1.1) or (1.2) of the *Canada Pension Plan* or as a like contribution under a *provincial pension plan*, as defined in section 3 of that Act, and

**(3) Subsections (1) and (2) come into force on January 1, 2019.**

## Child Benefits

### Status Indians

**8 (1) Paragraph (e) of the definition *eligible individual* in section 122.6 of the Act is amended by striking out “or” at the end of subparagraph (ii), by adding “or” at the end of subparagraph (iv) and by adding the following after subparagraph (iv):**

(v) is an Indian within the meaning of the *Indian Act*,

**(2) Subsection (1) is deemed to have come into force on January 1, 2005.**

**9 Section 28 of the *Budget Implementation Act, 2016, No. 1* is repealed and is deemed to have never come into force.**

### Provincial/Territorial Data Access

**10 (1) Paragraph 241(4)(j.1) of the Act is replaced by the following:**

(j.1) provide taxpayer information to an official or a designated person solely for the purpose of permitting the making of an adjustment to a social assistance payment made on the basis of a means, needs or income test if the purpose of the adjustment is to take into account

(i) the amount determined in respect of a person for C in subsection 122.61(1), as it read before July 2018, in respect of a *base taxation year* (as defined in section 122.6) before 2017, or

(ii) an amount determined in respect of a person under subsection 122.61(1) or (1.1) in respect of a *base taxation year* (as defined in section 122.6) after 2014;

**(2) Subsection (1) comes into force, or is deemed to have come into force, on July 1, 2018.**

## Charities — Miscellaneous Technical Issues

### Municipalities as Eligible Donees

**11 (1) Subsection 188(1.3) of the Act is replaced by the following:**

#### Eligible donee

**(1.3) In this Part, an eligible donee in respect of a particular charity is**

(a) a registered charity

(i) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity,

(ii) that is not the subject of a suspension under subsection 188.2(1),

(iii) that has no unpaid liabilities under this Act or under the *Excise Tax Act*,

(iv) that has filed all information returns required by subsection 149.1(14), and

(v) that is not the subject of a certificate under subsection 5(1) of the *Charities Registration (Security Information) Act* or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable; or

(b) a municipality in Canada that is approved by the Minister in respect of a transfer of property from the particular charity.

**(2) Subsection (1) applies in respect of transfers of property made on or after Budget Day.**

**12 (1) The portion of subsection 189(6.3) of the Act before paragraph (a) is replaced by the following:**

**Reduction of liability for penalties**

**(6.3)** If the Minister has assessed a particular person in respect of the particular person's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee described in paragraph 188(1.3)(a) in respect of the particular person, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

**(2) Subsection (1) applies in respect of transfers of property made on or after Budget Day.**

Universities Outside Canada

**13 (1) Subparagraph (a)(iv) of the definition *qualified donee* in subsection 149.1(1) of the Act is replaced by the following:**

(iv) a university outside Canada, the student body of which ordinarily includes students from Canada, that has applied for registration, or

**(2) Subsection (1) comes into force on Budget Day, except that if a university has applied for registration prior to Budget Day and is registered by the Minister on or after Budget Day, subsection (1) applies in respect of the university as of the day it applied for registration.**

**14 (1) Section 3503 of the *Income Tax Regulations* is repealed.**

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

**15 (1) Schedule VIII to the *Income Tax Regulations* is repealed.**

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

Mineral Exploration Tax Credit for Flow-Through Share Investors

**16 (1) Paragraph (a) of the definition *flow-through mining expenditure* in subsection 127(9) of the Act is replaced by the following:**

(a) that is a Canadian exploration expense incurred by a corporation after March 2018 and before 2020 (including, for greater certainty, an expense that is deemed by subsection 66(12.66) to be incurred before 2020) in conducting mining exploration activity from or above the surface of the earth for the purpose of determining the existence, location, extent or quality of a mineral resource described in paragraph (a) or (d) of the definition *mineral resource* in subsection 248(1),

**(2) Paragraphs (c) and (d) of the definition *flow-through mining expenditure* in subsection 127(9) of the Act are replaced by the following:**

(c) an amount in respect of which is renounced in accordance with subsection 66(12.6) by the corporation to the taxpayer (or a partnership of which the taxpayer is a member) under an agreement described in that subsection and made after March 2018 and before April 2019, and

(d) that is not an expense that was renounced under subsection 66(12.6) to the corporation (or a partnership of which the corporation is a member), unless that renunciation was under an agreement described in that subsection and made after March 2018 and before April 2019; (*dépense minière déterminée*)

**(3) Subsections (1) and (2) apply in respect of expenses renounced under a flow-through share agreement entered into after March 2018.**

## Reporting Requirements for Trusts

**17 The Act is modified to give effect to the proposals relating to reporting requirements for trusts described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

## Passive Investment Income

**18 (1) Subsection 125(5.1) of the Act is replaced by the following:**

### Business limit reduction

**(5.1)** Notwithstanding subsections (2), (3), (4) and (5), a Canadian-controlled private corporation's business limit for a particular taxation year ending in a calendar year is the amount, if any, by which its business limit otherwise determined for the particular taxation year exceeds the greater of

(a) the amount determined by the formula

$$A \times B / \$11,250$$

where

A is the amount that would, but for this subsection, be the corporation's business limit for the particular year, and

B is the amount determined by the formula

$$0.225\% \times (C - \$10 \text{ million})$$

where

C is

(i) if, in both the particular taxation year and the preceding taxation year, the corporation is not associated with any corporation, the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation for the preceding taxation year,

(ii) if, in the particular taxation year, the corporation is not associated with any corporation but was associated with one or more corporations in the preceding taxation year, the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation for the particular taxation year, or

(iii) if, in the particular taxation year, the corporation is associated with one or more particular corporations, the total of all amounts each of which is the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation or of any of the particular corporations for its last taxation year that ended in the preceding calendar year, and

(b) the amount determined by the formula

$$D / \$500,000 \times 5(E - \$50,000)$$

where

- D is the amount determined for A in paragraph (a), and
- E is the total of all amounts each of which is the adjusted aggregate investment income of the corporation or of any corporation with which it is associated at any time in the particular taxation year for each of their taxation years that ended in the preceding calendar year.

**(2) Section 125 of the Act is amended by adding the following after subsection (5.1):**

**Anti-avoidance**

**(5.2)** A particular corporation and another corporation are deemed to be associated with each other at a particular time for the purposes of paragraph (5.1)(b) if

- (a) the particular corporation lends or transfers property at any time, either directly or indirectly, by means of a trust or by any other means whatever, to the other corporation;
- (b) the other corporation is, at the particular time, related to the particular corporation but is not associated with it; and
- (c) it may reasonably be considered that one of the reasons the loan or transfer was made was to reduce the amount determined for E in paragraph (5.1)(b) in respect of the particular corporation for a taxation year.

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

**active asset**, of a particular corporation at any time, means property that is

- (a) used at that time principally in an active business carried on primarily in Canada by the particular corporation or by a Canadian-controlled private corporation that is related to the particular corporation,
- (b) a share of the capital stock of another corporation if, at that time,
  - (i) the other corporation is connected with the particular corporation (within the meaning assigned by subsection 186(4) on the assumption that the other corporation is at that time a “payer corporation” within the meaning of that subsection), and
  - (ii) the share would be a *qualified small business corporation share* (as defined in subsection 110.6(1)) if
    - (A) the references in that definition to an “individual” were references to the particular corporation, and
    - (B) that definition were read without reference to “the individual’s spouse or common law partner”, or
- (c) an interest in a partnership, if
  - (i) at that time, the fair market value of the particular corporation’s interest in the partnership is equal to or greater than 10% of the total fair market value of all interests in the partnership,
  - (ii) throughout the 24-month period ending before that time, more than 50% of the fair market value of the property of the partnership was attributable to property described in this paragraph or in paragraph (a) or (b), and
  - (iii) at that time, all or substantially all of the fair market value of the property of the partnership is attributable to property described in this paragraph or in paragraph (a) or (b); (*bien actif*)

**adjusted aggregate investment income**, of a corporation (other than a corporation that is deemed not to be a private corporation by subsection 136(1) or 137(7) or section 141.1) for a taxation year, means the amount that would be the *aggregate investment income* (as defined in subsection 129(4)) of the corporation for the year, if

- (a) subparagraph (a)(i) of that definition read: “the eligible portion of the corporation’s taxable capital gains (other than taxable capital gains from the disposition of property that is, at the time of disposition, an active asset of the corporation) for the year”,

**(b)** subparagraph (a)(ii) of that definition read: “the eligible portion of its allowable capital losses (other than allowable capital losses from the disposition of property that is, at the time of disposition, an active asset of the corporation) for the year, and”,

**(c)** paragraph (a) of that definition were read without reference to its subparagraph (iii),

**(d)** subparagraph (b)(iii) of that definition read: “a dividend from a corporation connected with it (within the meaning assigned by subsection 186(4) on the assumption that the corporation is at that time a “payer corporation” within the meaning of that subsection), and”,

**(e)** paragraph (a) of the definition *income* or *loss* in subsection 129(4) read: “includes

**(i)** the income or loss from a specified investment business carried on by it, and

**(ii)** amounts in respect of a life insurance policy that are included in computing the corporation’s income for the year, to the extent that the amounts would not otherwise be included in the computation of the corporation’s aggregate investment income, but”, and

**(f)** no amount were deducted under subsection 91(4) by the corporation in computing its income for the year; (*revenu de placement total ajusté*)

**(4) Subsections (1) to (3) apply to taxation years that begin after 2018. However, subsections (1) to (3) also apply to a taxation year of a corporation that begins before 2019 and ends after 2018 if**

**(a) the corporation’s preceding taxation year was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and**

**(b) one of the reasons for the transaction, event or series was to defer the application of any of subsections (1) to (3) or subsections 19(1) to (4) to the corporation.**

**19 (1) Paragraph 129(1)(a) of the Act is replaced by the following:**

**(a)** may, on sending the notice of assessment for the year, refund without application an amount (in this Act referred to as its “dividend refund” for the year) in respect of taxable dividends paid by the corporation on shares of its capital stock in the year, and at a time when it was a private corporation, equal to the total of

**(i)** in respect of eligible dividends, an amount equal to the lesser of

**(A)** 38 1/3% of the total of all eligible dividends paid by it in the year, and

**(B)** its eligible refundable dividend tax on hand at the end of the year, and

**(ii)** in respect of taxable dividends (other than eligible dividends), an amount equal to the total of

**(A)** the lesser of

**(I)** 38 1/3% of the total of all taxable dividends (other than eligible dividends) paid by it in the year, and

**(II)** its non-eligible refundable dividend tax on hand at the end of the year, and

**(B)** either

**(I)** if the amount determined under subclause (A)(I) exceeds the amount determined under subclause (A)(II), the lesser of

**1** the amount of the excess, and

**2** the amount by which the corporation's eligible refundable dividend tax on hand at the end of the year exceeds the amount, if any, determined under subparagraph (i) for the year, or

**(ii)** in any other case, nil; and

**(2) Subsection 129(3) of the Act is repealed.**

**(3) Subsection 129(4) of the Act is amended by adding the following in alphabetical order:**

**eligible refundable dividend tax on hand**, of a particular corporation at the end of a taxation year, means the amount, if any, by which the total of

**(a)** the total of the taxes payable under Part IV by the particular corporation for the year in respect of

**(i)** eligible dividends received by the particular corporation in the year from corporations other than corporations with which the particular corporation is connected (in this paragraph, within the meaning assigned by subsection 186(4) on the assumption that the other corporation is at that time a "payer corporation" within the meaning of that subsection), and

**(ii)** taxable dividends received by the particular corporation in the year from corporations that are connected with the particular corporation to the extent that such dividends caused a dividend refund to those corporations from their eligible refundable dividend tax on hand, and

**(b)** where the particular corporation was a private corporation at the end of its preceding taxation year, the particular corporation's eligible refundable dividend tax on hand at the end of that preceding year

exceeds

**(c)** the total of all amounts each of which is the portion, if any, of the particular corporation's dividend refund from its eligible refundable dividend tax on hand determined, for its preceding taxation year, under

**(i)** subparagraph (1)(a)(i), or

**(ii)** clause (1)(a)(ii)(B). (*impôt en main remboursable au titre de dividendes déterminés*)

**non-eligible refundable dividend tax on hand**, of a corporation at the end of a taxation year, means the amount, if any, by which the total of

**(a)** if the corporation was a Canadian-controlled private corporation throughout the year, the least of

**(i)** the amount determined by the formula

**A - B**

where

**A** is 30 2/3% of the corporation's aggregate investment income for the year, and

**B** is the amount, if any, by which

**(i)** the amount deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part

exceeds

**(ii)** 8% of its foreign investment income for the year,

**(ii)** 30 2/3% of the amount, if any, by which the corporation's taxable income for the year exceeds the total of

**(A)** the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,

**(B)** 100/(38 2/3) of the total of amounts deducted under subsection 126(1) from its tax for the year otherwise payable under this Part, and

**(C)** the amount determined by multiplying the total of amounts deducted under subsection 126(2) from its tax for the year otherwise payable under this Part, by the relevant factor for the year, and

**(iii)** the corporation's tax for the year payable under this Part,

**(b)** the total of the taxes payable under Part IV by the corporation for the year less the amount determined under paragraph (a) of the definition *eligible refundable dividend tax on hand* in respect of the corporation for the year, and

**(c)** if the corporation was a private corporation at the end of its preceding taxation year, the corporation's non-eligible refundable dividend tax on hand at the end of that preceding year

exceeds

**(d)** the portion, if any, of the corporation's dividend refund from its non-eligible refundable dividend tax on hand determined, for its preceding taxation year, under clause (1)(a)(ii)(A). (*impôt en main remboursable au titre de dividendes non-déterminés*)

**(4) Section 129 of the Act is amended by adding the following after subsection (4):**

**2019 transitional RDTOH**

**(5)** The following rules apply to a corporation's first taxation year in respect of which the definition *eligible refundable dividend tax on hand* in subsection (4) applies:

**(a)** if the corporation is a Canadian-controlled private corporation throughout the taxation year,

**(i)** for the purpose of applying paragraph (b) of the definition *eligible refundable dividend tax on hand* for the taxation year, the corporation's eligible refundable dividend tax on hand at the end of its preceding taxation year is deemed to be the amount, if any, that is the lesser of

**(A)** the amount determined by the formula

$$A - B$$

where

**A** is the corporation's refundable dividend tax on hand at the end of its preceding taxation year, and

**B** is the corporation's dividend refund for its preceding taxation year, and

**(B)** the amount determined by the formula

$$(C - D) \times E$$

where

**C** is the corporation's general rate income pool at the end of its preceding taxation year,

**D** is the amount, if any, by which

**(i)** the total of all amounts each of which is an eligible dividend paid by the corporation in its preceding taxation year

exceeds

**(ii)** the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year, and

**E** is 38 1/3%, and

(ii) for the purpose of applying paragraph (c) of the definition *non-eligible refundable dividend tax on hand* for the taxation year, the corporation's non-eligible refundable dividend tax on hand at the end of its preceding taxation year is deemed to be the amount determined by the formula

$$A - B$$

where

**A** is the amount determined under clause (a)(i)(A) in respect of the corporation at the end of the year, and

**B** is the amount determined under clause (a)(i)(B) in respect of the corporation at the end of the year; and

(b) if the corporation is not a Canadian-controlled private corporation throughout the taxation year, for the purpose of applying paragraph (b) of the definition *eligible refundable dividend tax on hand* for the taxation year, the corporation's eligible refundable dividend tax on hand at the end of its preceding taxation year is deemed to be the amount that would be determined for clause (a)(i)(A) if the corporation were a Canadian-controlled private corporation throughout the taxation year.

**(5) Subsections (1) to (4) apply to taxation years that begin after 2018. However, subsections (1) to (4) also apply to a taxation year of a corporation that begins before 2019 and ends after 2018 if**

**(a) the corporation's taxation year prior to that taxation year was, because of a transaction or event or a series of transactions or events, shorter than it would have been in the absence of that transaction, event or series; and**

**(b) one of the reasons for the transaction, event or series was to defer the application of any of subsections (1) to (4) or subsections 18(1) to (3) to the corporation.**

**20 The Act is further modified to give effect to the proposals relating to Passive Investment Income described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

## Tax Support for Clean Energy

**21 The portion of Class 43.2 in Schedule II to the *Income Tax Regulations* before paragraph (a) is replaced by the following:**

Property that is acquired after February 22, 2005 and before 2025 (other than property that was included, before it was acquired, in another class in this Schedule by any taxpayer) and that is property that would otherwise be included in Class 43.1

## Artificial Losses Using Equity-Based Financial Arrangements

**22 (1) Paragraph 112(2.31)(b) of the Act is replaced by the following:**

(b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share.

**(2) Subparagraph 112(2.32)(a)(ii) of the Act is replaced by the following:**

(ii) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

**(3) Clause 112(2.32)(b)(iii)(B) of the Act is replaced by the following:**

(B) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

**(4) Clause 112(2.32)(c)(iii)(B) of the Act is replaced by the following:**

(B) all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31) has not been eliminated and cannot reasonably be expected by it to be eliminated;

**(5) Subsection 112(2.33) of the Act is replaced by the following:**

**End of particular period**

**(2.33)** If, at a time during a particular period referred to in subsection (2.31), a counterparty, specified counterparty, affiliated counterparty or affiliated specified counterparty reasonably expects to become a tax-indifferent investor or — if it has provided a representation described by subparagraph (2.32)(a)(ii) or clause (2.32)(b)(iii)(B) or (c)(iii)(B) in respect of a share — that all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share will be eliminated, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

**(6) Subsections (1) to (5) apply in respect of dividends that are paid or become payable on or after Budget Day.**

**23 (1) The definition *SLA compensation payment* in subsection 260(1) of the Act is replaced by the following:**

***SLA compensation payment*** means an amount paid pursuant to a securities lending arrangement, or a specified securities lending arrangement, as compensation for an underlying payment; (*paiement compensatoire (MPVM)*)

**(2) Subsection 260(1) of the Act is amended by adding the following in alphabetical order:**

***specified securities lending arrangement*** means an arrangement, other than a securities lending arrangement, under which

(a) a person transfers or lends at any particular time a particular share described in paragraph (a) of the definition *qualified security* to another person,

(b) it may reasonably be expected, at the particular time, that the other person will transfer or return after the particular time to the person a share that is identical to the particular share so transferred or lent, and

(c) the person's risk of loss or opportunity for gain or profit with respect to the particular share is not changed in any material respect; (*mécanisme de prêt de valeurs mobilières déterminé*)

**(3) The portion of subsection 260(5) of the Act before paragraph (a) is replaced by the following:**

**Where subsection (5.1) applies**

(5) Subsection (5.1) applies to a taxpayer for a taxation year in respect of a particular amount (other than an amount received as proceeds of disposition or an amount received by a person under an arrangement where it may reasonably be considered that one of the main reasons for the person entering into the arrangement was to enable the person to receive an SLA compensation payment pursuant to a securities lending arrangement, or a dealer compensation payment, that would be deductible in computing the taxable income, or not included in computing the income, for any taxation year of the person) received by the taxpayer in the taxation year

**(4) Paragraph 260(6)(a) of the Act is replaced by the following:**

(a) if the taxpayer is a registered securities dealer and the particular amount is deemed by subsection (5.1) to have been received as a taxable dividend, no more than 2/3 of the particular amount (unless, for greater certainty, the particular amount is an amount for which a deduction in computing income may be claimed under subsection (6.1) by the taxpayer); or

**(5) The portion of subsection 260(6.1) of the Act before paragraph (a) is replaced by the following:**

**Deductible amount**

**(6.1)** There may be deducted in computing a corporation's income under Part I from a business or property for a taxation year an amount equal to the lesser of

**(6) Subsections (1) to (5) apply in respect of amounts paid or payable, or received or receivable, as compensation for dividends on or after Budget Day. However, subsections (1) to (5) do not apply in respect of amounts paid or payable, or received or receivable, as compensation for dividends on or after Budget Day and before October 2018, if they are pursuant to a written arrangement entered into before Budget Day.**

## Stop-Loss Rule on Share Repurchase Transactions

**24 (1) The description of B in subsection 112(5.2) of the Act is replaced by the following:**

B is

(a) if the taxpayer received a dividend under subsection 84(3) in respect of the share, the total determined under subparagraph (b)(ii), and

(b) in any other case, the lesser of

(i) the loss, if any, from the disposition of the share that would be determined before the application of this subsection if the cost of the share to any taxpayer were determined without reference to

(A) paragraphs 87(2)(e.2) and (e.4), 88(1)(c), 138(11.5)(e) and 142.5(2)(b),

(B) subsection 85(1), where the provisions of that subsection are required by paragraph 138(11.5)(e) to be applied, and

(C) paragraph 142.6(1)(d), and

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

(A) where the taxpayer is a corporation, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year,

(B) where the taxpayer is a partnership, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxable income or taxable income earned in Canada for any taxation year of members of the partnership,

(C) where the taxpayer is a trust, an amount designated under subsection 104(19) in respect of a taxable dividend on the share, or

(D) a dividend (other than a taxable dividend) received by the taxpayer on the share,

**(2) The portion of subsection 112(5.21) of the Act before paragraph (a) is replaced by the following:**

**Subsection (5.2) — excluded dividends**

**(5.21)** A dividend, other than a dividend received under subsection 84(3), shall not be included in the total determined under subparagraph (b)(ii) of the description of B in subsection (5.2) unless

**(3) Subsections (1) and (2) apply in respect of dispositions that occur on or after Budget Day.**

**25 (1) Section 142.5 of the Act is amended by adding the following after subsection (3):**

**Proceeds — mark-to-market property**

**(4)** For greater certainty, if a taxpayer is a financial institution in a taxation year and disposes of a share that is mark-to-market property of the taxpayer for the year, the taxpayer's proceeds from the disposition do not include any amount that would otherwise be proceeds from the disposition to the extent that the amount is deemed by subsection 84(2) or (3) to be a dividend received except to the extent the dividend is deemed by subparagraph 88(2)(b)(ii) not to be a dividend.

**(2) Subsection (1) applies in respect of dispositions that occur on or after Budget Day.**

## At-Risk Rules for Tiered Partnerships

**26 (1) Section 96 of the Act is amended by adding the following after subsection (2):**

**Tiered partnerships**

**(2.01)** For the purposes of this section, a taxpayer includes a partnership.

**(2) Subsection 96(2.1) of the Act is amended by striking out “and” at the end of paragraph (d) and by replacing paragraph (e) with the following:**

**(e)** if the taxpayer is not a partnership, be deemed to be the taxpayer's limited partnership loss in respect of the partnership for the year, and

**(f)** if the taxpayer is a partnership, reduce the taxpayer's share of any loss of the partnership for a fiscal period of the partnership ending in the taxation year of the taxpayer from a business (other than a farming business) or from property.

**(3) Section 96 of the Act is amended by adding the following after subsection (2.1):**

**Tiered partnerships — adjustments**

**(2.11)** The following rules apply to taxation years of a taxpayer that end on or after Budget Day:

**(a)** for the purpose of applying section 111, the taxpayer's non-capital loss, or limited partnership loss in respect of a partnership, for a preceding taxation year shall be determined as if subsection (2.01) and paragraph (2.1)(f) applied in respect of taxation years that end before Budget Day; and

**(b)** in computing the adjusted cost base to the taxpayer of the taxpayer's interest in a partnership on or after Budget Day, there shall be added an amount equal to the portion of the amount of any reduction because of paragraph (a) in a non-capital loss of the taxpayer that can reasonably be considered to relate to the amount of a loss deducted under subparagraph 53(2)(c)(i) in computing the adjusted cost base of that interest.

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

## Health and Welfare Trusts

**27 The Act is modified to give effect to the proposals relating to Health and Welfare Trusts described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

## Cross-Border Surplus Stripping using Partnerships and Trusts

**28 The Act is modified to give effect to the proposals relating to Cross-Border Surplus Stripping using Partnerships and Trusts described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day, including by the amendments in sections 29 and 30.**

**29 (1) Subparagraph (a)(ii) of the definition *equity amount* in subsection 18(5) of the Act is replaced by the following:**

(ii) the average of all amounts each of which is the corporation's contributed surplus (other than any portion of that contributed surplus that arose at a time when the corporation was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) at the beginning of a calendar month that ends in the year, to the extent that it was contributed by a specified non-resident shareholder of the corporation, and

**(2) Subsection (1) applies in respect of transactions or events that occur on or after Budget Day.**

**30 (1) Paragraphs 84(1)(c.1) and (c.2) of the Act are replaced by the following:**

(c.1) if the corporation is an insurance corporation, any action by which it converts contributed surplus related to its insurance business (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of the shares of its capital stock,

(c.2) if the corporation is a bank, any action by which it converts any of its contributed surplus that arose on the issuance of shares of its capital stock (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of shares of its capital stock, or

**(2) The portion of paragraph 84(1)(c.3) of the Act before subparagraph (ii) is replaced by the following:**

(c.3) if the corporation is neither an insurance corporation nor a bank, any action by which it converts into paid-up capital in respect of a class of shares of its capital stock any of its contributed surplus that arose after March 31, 1977 (other than any portion of that contributed surplus that arose at a time when it was non-resident, or that arose in connection with a disposition to which subsection 212.1(1.1) applies or an *investment*, as defined in subsection 212.3(10), to which subsection 212.3(2) applies)

(i) on the issuance of shares of that class or shares of another class for which the shares of that class were substituted (other than an issuance to which section 51, 66.3, 84.1, 85, 85.1, 86 or 87 or subsection 192(4.1) or 194(4.1) applied),

**(3) Subsections (1) and (2) apply in respect of transactions or events that occur on or after Budget Day.**

## Foreign Affiliates

**31 The Act is modified to give effect to the proposals relating to Foreign Affiliates described in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

## Reassessment Period – Requirements for Information and Compliance Orders

**32 The portion of section 231 of the Act before the definition *authorized person* is replaced by the following:**

**231** In sections 231.1 to 231.8,

**33 The portion of subsection 231.6(7) of the Act before paragraph (a) is replaced by the following:**

**Time period not to count**

(7) The period of time between the day on which an application for review of a requirement is made pursuant to subsection (4) and the day on which the application is finally disposed of shall not be counted in the computation of

**34 The Act is amended by adding the following after section 231.7:**

**Time period not to count**

**231.8** The following periods of time shall not be counted in the computation of the period of time within which an assessment may be made for a taxation year of a taxpayer under subsection 152(4):

(a) where the taxpayer is served 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

(b) where an application under subsection 231.7(1) is commenced by the Minister to order the taxpayer to provide any access, assistance, information or document, the period of time between the day on which the taxpayer files a notice of appearance, or otherwise opposes the application, and the day on which the application is finally disposed of.

**Reassessment Period – Non-Resident Non-Arm’s Length Persons**

**35 (1) Subparagraph 152(4)(b)(iii) of the French version of the Act is replaced by the following:**

(iii) est établie par suite de la conclusion d’une opération impliquant le contribuable et une personne non résidente avec laquelle il avait un lien de dépendance,

**(2) Subsection 152(4) of the Act is amended by adding the following after paragraph (b.3):**

(b.4) the assessment, reassessment or additional assessment is made before the day that is six years after the end of the normal reassessment period for the taxpayer in respect of the year if

(i) a reassessment of tax for the year was required under subsection (6), or would have been so required if the taxpayer had claimed an amount by filing the prescribed form referred to in that subsection on or before the day referred to in that subsection, in order to take into account a deduction claimed under section 111 in respect of a loss for a subsequent taxation year,

(ii) an assessment, reassessment or additional assessment of tax for the subsequent taxation year referred to in subparagraph (i) was made after the normal reassessment period in respect of the subsequent taxation year as a consequence of a transaction involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm’s length, and

(iii) the assessment, reassessment or additional assessment referred to in subparagraph (ii) reduced the amount of the loss for the subsequent taxation year;

**(3) The portion of subsection 152(4.01) of the Act before paragraph (a) is replaced by the following:**

**Extended period assessment**

(4.01) Notwithstanding subsections (4) and (5), an assessment, reassessment or additional assessment to which paragraph (4)(a), (b), (b.1), (b.3), (b.4) or (c) applies in respect of a taxpayer for a taxation year may be made after the taxpayer’s normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

**(4) Subsection 152(4.01) of the Act is amended by striking out “and” at the end of paragraph (b), by adding “and” at the end of paragraph (c) and by adding the following after paragraph (c):**

**(d)** if paragraph (4)(b.4) applies to the assessment, reassessment or additional assessment, the reduction under subparagraph (4)(b.4)(iii).

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

**(6) Subsections (2) to (4) apply in respect of a taxation year if a reassessment of tax for the year was required under subsection 152(6) of the Act, or would have been so required if the taxpayer had claimed an amount by filing the prescribed form referred to in that subsection on or before the day referred to in that subsection, in order to take into account a deduction claimed under section 111 of the Act in respect of a loss for a subsequent taxation year that ends on or after 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 and Investment Limited Partnerships

**1 (1) Subsection 123(1) of the *Excise Tax Act* is amended by adding the following in alphabetical order:**

***investment limited partnership*** means a limited partnership, the primary purpose of which is to invest funds in property consisting primarily of financial instruments, if

(a) the limited partnership is, or forms part of an arrangement or structure that is, represented or promoted as a hedge fund, investment limited partnership, mutual fund, private equity fund, venture capital fund or other similar collective investment vehicle, or

(b) the total value of all interests in the limited partnership held by listed financial institutions is 50% or more of the total value of all interests in the limited partnership; (*société en commandite de placement*)

**(2) Subsection (1) is deemed to have come into force on September 8, 2017.**

**2 (1) Section 132 of the Act is amended by adding the following after subsection (5):**

### **Residence of investment limited partnerships**

**(6)** For the purposes of this Part but subject to subsection (2), an investment limited partnership is deemed to not be resident in Canada at any time if, at that time, the total value of all interests in the partnership held by non-resident members of the partnership (other than prescribed members) is 95% or more of the total value of all interests in the partnership.

**(2) Subsection (1) is deemed to have come into force on September 8, 2017.**

**3 (1) Subsection 149(5) of the Act is amended by striking out “and” at the end of paragraph (f) and by adding the following after paragraph (f):**

(f.1) an investment limited partnership; and

**(2) Subsection (1) applies in respect of**

(a) any taxation year of a person that begins after 2018; and

(b) the taxation years of a person that begin in 2018 if the person elects to have subsection (1) apply in respect of those taxation years.

**(3) An election under paragraph (2)(b) is to**

(a) be made in prescribed form containing prescribed information; and

(b) be filed with the Minister of National Revenue in prescribed manner on or before the day that is 60 days after the day on which the legislation enacting this section receives royal assent or any later day that the Minister of National Revenue may allow.

**(4) If a person makes an election under paragraph (2)(b), the references in subsection 244.1(4) of the Act, as enacted by subsection 4(1), to “2018” and “2019” are to be read as “2017” and “2018”, respectively, in applying that subsection 244.1(4) in respect of the person.**

**4 (1) Section 244.1 of the Act is amended by adding the following after subsection (3):**

**Fiscal year – investment limited partnership**

**(4)** If a particular fiscal year of an investment limited partnership begins in 2018 and includes January 1, 2019 and the investment limited partnership would be a selected listed financial institution throughout a reporting period in the particular fiscal year if the particular fiscal year began on January 1, 2019 and ended on December 31, 2019, the following rules apply:

- (a)** the particular fiscal year ends on December 31, 2018;
- (b)** subject to subsection (2), the fiscal years of the investment limited partnership are calendar years as of January 1, 2019;
- (c)** any election made by the investment limited partnership under section 244 ceases to have effect as of January 1, 2019; and
- (d)** if the first taxation year of the investment limited partnership that begins after 2018 does not begin on January 1, 2019, for the purposes of subsection 225.2(1) the investment limited partnership is deemed to be a financial institution for the period beginning on January 1, 2019 and ending on the day preceding the first day of that taxation year.

**(2) Subsection (1) is deemed to have come into force on September 8, 2017.**

**5 (1) Paragraph 272.1(3)(b) of the Act is replaced by the following:**

**(b)** in the case of management or administrative services that are rendered by a general partner of an investment limited partnership to the investment limited partnership under an agreement for the particular supply of those services,

**(i)** if subsection 136.1(2) applies in respect of the particular supply, for each separate supply of those services that is deemed under paragraph 136.1(2)(a) to be made by the general partner for a billing period (within the meaning of that subsection), the separate supply is deemed, despite paragraph 136.1(2)(c), to be made for consideration that becomes due on the last day of the billing period equal to the fair market value of the services rendered under the agreement by the general partner to the investment limited partnership during the billing period, determined as if the general partner were not a member of the investment limited partnership and were dealing at arm's length with the investment limited partnership, and

**(ii)** in any other case,

**(A)** the general partner is deemed to have made, and the investment limited partnership is deemed to have received, a separate supply of those services for each reporting period of the general partner during which those services are, or are to be, rendered under the agreement, and

**(B)** each separate supply of those services that is deemed to be made under clause (A) for a reporting period of the general partner is deemed to be made on the first day of the reporting period for consideration that becomes due on the last day of the reporting period equal to the fair market value of the services rendered under the agreement by the general partner to the investment limited partnership during the reporting period, determined as if the general partner were not a member of the investment limited partnership and were dealing at arm's length with the investment limited partnership; and

**(c)** in any other case, the supply is deemed to have been made for consideration that becomes due at the time the supply is made equal to the fair market value at that time of the property or service acquired by the partnership determined as if the person were not a member of the partnership and were dealing at arm's length with the partnership.

**(2) Section 272.1 of the Act is amended by adding the following after subsection (7):**

**Investment limited partnership – supply by general partner**

**(8)** For the purposes of this Part, if a general partner of an investment limited partnership renders a management or administrative service to the investment limited partnership,

(a) the rendering of the service is deemed not to be done by the general partner as a member of the investment limited partnership; and

(b) the supply by the general partner to the investment limited partnership that includes the service is deemed to have been made otherwise than in the course of the investment limited partnership's activities.

**(3) For the purposes of subsections (4) to (6) and Part IX of the Act, if management or administrative services are rendered by a general partner of an investment limited partnership to the investment limited partnership under a particular agreement entered into before September 8, 2017 and if some or all of those services are rendered on or after that day, the following rules apply:**

**(a) in respect of the management or administrative services that are rendered on or after September 8, 2017 (referred to in this paragraph as the "subsequent services"),**

(i) the general partner is deemed to have made, and the investment limited partnership is deemed to have received, a particular supply of the subsequent services and the particular supply is deemed to have been made on September 8, 2017,

(ii) the subsequent services are deemed to have been rendered under an agreement for the particular supply and not under the particular agreement and the agreement for the particular supply is deemed to have been entered into on September 8, 2017,

(iii) any amount that is charged, collected or remitted at any time as or on account of tax under Part IX of the Act in respect of an amount of consideration that is reasonably attributable to the rendering of the subsequent services is deemed to be an amount of tax that is collected at that time in respect of the particular supply, and

(iv) if the total of all amounts of tax that are payable under Part IX of the Act in respect of the particular supply is in excess of the total of the amounts that are deemed under subparagraph (iii) to be amounts collected before Budget Day in respect of that supply, that excess is deemed, despite subsection 272.1(3) of the Act, as amended by subsection (1), to have become payable on Budget Day and the general partner is deemed to have collected that excess on that day; and

**(b) in respect of the management or administrative services, if any, that are rendered before September 8, 2017 (referred to in this paragraph as the "prior services"),**

(i) the general partner is deemed to have made, and the investment limited partnership is deemed to have received, a supply of the prior services (referred to in this paragraph as the "earlier supply") and the earlier supply is deemed to have been made on the day on which the particular agreement is entered into,

(ii) the prior services are deemed to have been rendered under an agreement for the earlier supply and not under the particular agreement and the agreement for the earlier supply is deemed to have been entered into on the day on which the particular agreement is entered into, and

(iii) any amount that is charged, collected or remitted at any time as or on account of tax under Part IX of the Act in respect of an amount of consideration that is reasonably attributable to the rendering of the prior services under the particular agreement is deemed to be an amount of tax that is collected at that time in respect of the earlier supply.

**(4) Subsection (1) applies in respect of management or administrative services that are supplied after September 7, 2017.**

**(5) Subsection (2) is deemed to have come into force on September 8, 2017 but also applies in respect of management or administrative services that are rendered under an agreement entered into before that day if an amount was, before that day, charged, collected or remitted as or on account of tax under Part IX of the Act in respect of those services or in respect of any supply made under the agreement.**

**(6) For the purposes of Part IX of the Act, if subsection 272.1(8) of the Act, as enacted by subsection (2), applies in respect of management or administrative services that are rendered before September 8, 2017 by a general partner of an investment limited partnership to the investment limited partnership under an agreement entered into before that day, the following rules apply:**

**(a) subsection 272.1(3) of the Act, as amended by subsection (1), does not apply in respect of the supply of the management or administrative services made by the general partner to the investment limited partnership;**

**(b) any amount that the investment limited partnership pays or credits to the general partner after September 7, 2017 that is reasonably attributable to the management or administrative services is deemed to be consideration for the supply of those services by the general partner to the investment limited partnership that becomes due at the time the amount is paid or credited; and**

**(c) if an amount was charged, collected or remitted as or on account of tax in respect of a particular amount — being an amount that the investment limited partnership paid or credited to the general partner before September 8, 2017 and that is reasonably attributable to the management or administrative services — the particular amount is deemed to be consideration for a taxable supply of those services that becomes due at the time the amount is paid or credited.**

# Notice of Ways and Means Motion to Amend the Excise Act, 2001 and Other Related Legislation

That it is expedient to amend the *Excise Act, 2001* and other related legislation as follows:

## Tobacco Taxation

Excise Act, 2001

**1 (1) Subsections 43.1(1) and (2) of the *Excise Act, 2001* are replaced by the following:**

### **Definition of *inflationary adjusted year***

**43.1 (1)** In this section, *inflationary adjusted year* means 2019 and every year after that year.

### **Annual adjustments**

**(2)** Each rate of duty set out in sections 1 to 4 of Schedule 1 and paragraph (a) of Schedule 2 in respect of a tobacco product is to be adjusted on April 1 of an inflationary adjusted year so that the rate is equal to the greater of

**(a)** the rate determined by the formula

$$A \times B$$

where

**A** is the rate of duty applicable to the tobacco product on March 31 of the inflationary adjusted year, and

**B** is the amount, rounded to the nearest one-thousandth, or, if the amount is equidistant from two consecutive one-thousandths, rounded to the higher one-thousandth, determined by the formula

$$C/D$$

where

**C** is the Consumer Price Index for the 12-month period ending on September 30 of the particular year preceding the inflationary adjusted year, and

**D** is the Consumer Price Index for the 12-month period ending on September 30 of the year preceding the particular year; and

**(b)** the rate of duty referred to in the description of A in paragraph (a).

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

**2 (1) The definition *adjustment day* in section 58.1 of the Act is amended by striking out “or” at the end of paragraph (a) and by replacing paragraph (b) with the following:**

**(a.1)** the day after Budget Day; or

**(b)** in the case of an inflationary adjusted year, April 1 of that year. (*date d’ajustement*)

**(2) The portion of the definition *taxed cigarettes* in section 58.1 of the Act before paragraph (a) is replaced by the following:**

*taxed cigarettes* of a person means cigarettes in respect of which duty has been imposed under section 42 or 53 at the rate applicable on the day before an adjustment day, and that, at the beginning of the adjustment day,

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

**3 (1) Subsection 58.2(2) of the Act is replaced by the following:**

**Imposition of tax — 2018 increase**

**(1.1)** Subject to section 58.3, every person shall pay to Her Majesty a tax on all taxed cigarettes of the person held at the beginning of the day after Budget Day at the rate of \$0.011468 per cigarette.

**Imposition of tax — inflationary adjusted years**

**(2)** Subject to section 58.3, every person shall pay to Her Majesty a tax on all taxed cigarettes of the person held at the beginning of April 1 of an inflationary adjusted year at a rate per cigarette equal to

**(a)** in the case of cigarettes in respect of which duty has been imposed under section 42, the amount determined by the formula

$$(A - B)/5$$

where

**A** is the rate of duty applicable under section 1 of Schedule 1 for each five cigarettes on April 1 of the inflationary adjusted year, and

**B** is the rate of duty applicable under section 1 of Schedule 1 for each five cigarettes on March 31 of the inflationary adjusted year; and

**(b)** in the case of cigarettes in respect of which duty has been imposed under section 53, the amount determined by the formula

$$C - D$$

where

**C** is the rate of duty applicable under paragraph 1(a) of Schedule 3 per cigarette on April 1 of the inflationary adjusted year, and

**D** is the rate of duty applicable under paragraph 1(a) of Schedule 3 per cigarette on March 31 of the inflationary adjusted year.

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

**4 (1) Subsection 58.5(1) of the Act is amended by striking out “or” at the end of paragraph (a) and by replacing paragraph (b) with the following:**

**(a.1)** in the case of the tax imposed under subsection 58.2(1.1), the last day of the month that is two months after the month that includes Budget Day; or

**(b)** in the case of the tax imposed under subsection 58.2(2) in respect of an inflationary adjusted year, May 31 of the inflationary adjusted year.

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

**5 (1) Subsection 58.6(1) of the Act is amended by striking out “or” at the end of paragraph (a) and by replacing paragraph (b) with the following:**

**(a.1)** in the case of the tax imposed under subsection 58.2(1.1), the last day of the month that is two months after the month that includes Budget Day; or

**(b)** in the case of the tax imposed under subsection 58.2(2) in respect of an inflationary adjusted year, May 31 of the inflationary adjusted year.

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

**6 (1) Subparagraphs 216(2)(a)(i) to (iv) of the Act are replaced by the following:**

- (i) \$0.24 multiplied by the number of cigarettes to which the offence relates,
- (ii) \$0.24 multiplied by the number of tobacco sticks to which the offence relates,
- (iii) \$0.30 multiplied by the number of grams of manufactured tobacco other than cigarettes or tobacco sticks to which the offence relates, and
- (iv) \$0.47 multiplied by the number of cigars to which the offence relates, and

**(2) Subparagraphs 216(3)(a)(i) to (iv) of the Act are replaced by the following:**

- (i) \$0.36 multiplied by the number of cigarettes to which the offence relates,
- (ii) \$0.36 multiplied by the number of tobacco sticks to which the offence relates,
- (iii) \$0.45 multiplied by the number of grams of manufactured tobacco other than cigarettes or tobacco sticks to which the offence relates, and
- (iv) \$0.93 multiplied by the number of cigars to which the offence relates, and

**7 Paragraphs 240(a) to (c) of the Act are replaced by the following:**

- (a) \$0.43 per cigarette that was removed in contravention of that subsection,
- (b) \$0.43 per tobacco stick that was removed in contravention of that subsection, and
- (c) \$537.48 per kilogram of manufactured tobacco, other than cigarettes and tobacco sticks, that was removed in contravention of that subsection.

**8 (1) Paragraph 1(a) of Schedule 1 to the Act is replaced by the following:**

- (a) \$0.59634; or

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

**9 (1) Paragraph 2(a) of Schedule 1 to the Act is replaced by the following:**

- (a) \$0.11927; or

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

**10 (1) Paragraph 3(a) of Schedule 1 to the Act is replaced by the following:**

- (a) \$7.45425; or

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

**11 (1) Paragraph 4(a) of Schedule 1 to the Act is replaced by the following:**

- (a) \$25.95832; or

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

**12 (1) Subparagraph (a)(i) of Schedule 2 to the Act is replaced by the following:**

- (i) \$0.09331, or

**(2) Paragraph (b) of Schedule 2 to the Act is replaced by the following:**

(b) the amount obtained by multiplying the sale price, in the case of cigars manufactured in Canada, or the duty-paid value, in the case of imported cigars, by 88%.

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

Economic Action Plan 2014 Act, No. 1

**13 Subsection 76(5) of the *Economic Action Plan 2014 Act, No. 1* is replaced by the following:**

**(5) Subsections (2) and (4) come into force on April 1, 2019.**

**14 Subsection 78(3) of the Act is replaced by the following:**

**(3) Subsection (2) comes into force on April 1, 2019.**

**15 Subsection 79(4) of the Act is replaced by the following:**

**(4) Subsection (2) comes into force on April 1, 2019.**

**16 Subsection 80(4) of the Act is replaced by the following:**

**(4) Subsection (2) comes into force on April 1, 2019.**

**17 Subsection 81(4) of the Act is replaced by the following:**

**(4) Subsection (2) comes into force on April 1, 2019.**

Economic Action Plan 2014 Act, No. 2

**18 Subsection 100(4) of the *Economic Action Plan 2014 Act, No. 2* is replaced by the following:**

**(4) Subsection (2) comes into force on the day after Budget Day.**

**19 Subsection 101(2) of the Act is replaced by the following:**

**(2) Subsection (1) comes into force on the day after Budget Day.**

Budget Implementation Act, 2017, No. 1

**20 Subsections 45(3) and (5) of the *Budget Implementation Act, 2017, No. 1* are repealed.**

Application

**21 For the purposes of applying the provisions of the *Customs Act* that provide for the payment of, or the liability to pay, interest in respect of any amount, the amount is to be determined and interest is to be computed on it as though paragraphs 1(a), 2(a), 3(a), 4(a) of Schedule 1 to the *Excise Act, 2001*, as enacted by sections 8 to 11, and subparagraph (a)(i) and paragraph (b) of Schedule 2 to the *Excise Act, 2001*, as enacted by section 12, had been assented to on the day after Budget Day.**

## Cannabis Taxation

**22 The *Excise Act, 2001* and related legislative texts are modified to give effect to the proposals relating to the excise duty framework for cannabis products as described in the release by the Minister of Finance on November 10, 2017 and subsequently in the budget documents tabled by the Minister of Finance in the House of Commons on Budget Day.**

DRAFT AMENDMENTS TO  
VARIOUS GST/HST  
REGULATIONS



# Draft Amendments to Various GST/HST Regulations

## GST/HST and Investment Limited Partnerships

### Financial Services and Financial Institutions (GST/HST) Regulations

**1 The *Financial Services and Financial Institutions (GST/HST) Regulations* are amended by adding the following after section 4:**

#### Prescribed Member for Subsection 132(6) of the Act

**4.1** For the purposes of subsection 132(6) of the Act, the following members of an investment limited partnership are prescribed members:

- (a) a member that is a non-resident trust if the total value of the assets of the member in which one or more persons resident in Canada have a beneficial interest is more than 5% of the total value of the assets of the member; and
- (b) a member that is a non-resident limited partnership if the total value of all interests in the member held by persons resident in Canada is more than 5% of the total value of all interests in the member.

**2 Section 1 is deemed to have come into force on September 8, 2017.**

### Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations

**3 (1) The definition *distributed investment plan* in subsection 1(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* is amended by striking out “or” at the end of paragraph (g), by adding “or” at the end of paragraph (h) and by adding the following after paragraph (h):**

- (i) an investment limited partnership. (*régime de placement par répartition*)

**(2) The definition *permanent establishment* in subsection 1(1) of the Regulations is amended by adding “and” at the end of paragraph (b) and by replacing paragraphs (c) and (d) by the following:**

- (c) in the case of a partnership that is not an investment plan,
  - (i) if all the members of the partnership are individuals or trusts, any permanent establishment that would be a permanent establishment of the partnership under subsection 2600(2) of the *Income Tax Regulations* if the partnership were an individual, and
  - (ii) if subparagraph (i) does not apply, any permanent establishment that would be a permanent establishment of the partnership under subsection 400(2) of the *Income Tax Regulations* if the partnership were a corporation. (*établissement stable*)

**(3) The portion of paragraph (b) of the definition *provincial series* in subsection 1(1) of the Regulations before subparagraph (i) is replaced by the following:**

- (b) under the terms of the prospectus, registration statement, partnership agreement or other similar document for the series, or under the laws of Canada or a province, the conditions for a person owning or acquiring units of the series include the following:

**(4) The definition *series* in subsection 1(1) of 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 paragraph (b):**

**(c)** in respect of a partnership, a class of units of the partnership. (*série*)

**(5) The definition *unit* in subsection 1(1) of the Regulations is amended by striking out “and” at the end of paragraph (d) and by adding the following after that paragraph:**

**(d.1)** in respect of a partnership, an interest of a person in the partnership;

**(d.2)** in respect of a series of a partnership, a unit of the partnership of that series; and

**4 The portion of section 2 of the Regulations before paragraph (a) is replaced by the following:**

**Meaning of *qualifying partnership***

**2** For the purposes of these Regulations, a partnership that is not an investment plan is a *qualifying partnership* during a taxation year of the partnership if, at any time in the taxation year, the partnership has

**5 The portion of paragraph 11(b) of the Regulations before subparagraph (i) is replaced by the following:**

**(b)** under the terms of the prospectus, registration statement, partnership agreement or other similar document for the financial institution, or under the laws of Canada or a province, the conditions for a person owning or acquiring units of the financial institution include

**6 (1) The portion of the definition *plan merger* in subsection 16(1) of the Regulations before paragraph (a) is replaced by the following:**

*plan merger* means the merger or combination of two or more trusts, corporations or partnerships, each of which was, immediately before the merger or combination, a distributed investment plan and each of which is referred to in this definition as a “predecessor”, to form one trust, corporation or partnership (referred to in this definition as the “continuing plan”) in such a manner that

**(2) Paragraph (c) of the definition *plan merger* in subsection 16(1) of the Regulations is replaced by the following:**

**(c)** the merger or combination is otherwise than as a result of the acquisition of property of a particular trust, corporation or partnership by another trust, corporation or partnership, pursuant to the purchase of that property by the other trust, corporation or partnership or as a result of the distribution of that property to the other trust, corporation or partnership on the winding-up of the particular trust, corporation or partnership. (*fusion de régimes*)

**7 The Regulations are amended by adding the following after section 72:**

## Transitional Rules for Investment Limited Partnerships

### Investment limited partnerships – 2019

**73 (1)** A particular investment limited partnership to which subparagraph 149(1)(a)(ix) of the Act does not apply is deemed to be an investment plan that is a distributed investment plan for the following purposes:

**(a)** the purposes of determining under any of sections 30 and 32 to 34 the percentage for a participating province and for a *particular period* (as defined in subsection 16(1)) of a selected listed financial institution or of another investment limited partnership described in subsection (2), but only if the percentage is to be used in the determination of

**(i)** the positive amount that the financial institution or other investment limited partnership is required to add, or the negative amount that the financial institution or other investment limited partnership is able to deduct, in

determining its net tax under subsection 225.2(2) of the Act, having regard to any applicable adaptations made to that subsection under these Regulations, for a reporting period in a fiscal year of the financial institution or other investment limited partnership that begins in 2019,

**(ii)** the instalment base under subsection 237(2) of the Act, having regard to any applicable adaptations made to that subsection under these Regulations, of the financial institution or other investment limited partnership for a reporting period in a fiscal year of the financial institution or other investment limited partnership that begins in 2019,

**(iii)** the interim net tax under subsection 228(2.1) of the Act, having regard to any applicable adaptations made to that subsection under these Regulations, for a reporting period in a fiscal year of the financial institution or other investment limited partnership that begins in 2019, or

**(iv)** if a joint election made under section 55 by the financial institution or other investment limited partnership and the manager of the financial institution or other investment limited partnership is in effect at any time in a fiscal year of the manager that begins in 2019,

**(A)** an amount that, under paragraph 55(2)(c), is a prescribed amount for the purposes of the description of G in subsection 225.2(2) of the Act for a reporting period in the fiscal year, or

**(B)** the positive amount that the manager is required to add, or the negative amount that the manager is able to deduct, in determining its net tax under subsection 225.2(2) of the Act, having regard to the adaptations made to that subsection under paragraph 55(2)(d), for a reporting period in the fiscal year;

**(b)** the purposes of determining under section 28 an investor percentage of the particular investment limited partnership as of a day in 2018; and

**(c)** the purposes of applying section 52 to the particular investment limited partnership in respect of any information that is requested under that section by a selected listed financial institution or by another investment limited partnership described in subsection (2), but only if the information is required for

**(i)** the determination of a percentage referred to in paragraph (a) of the financial institution or other investment limited partnership that is to be used in the determination of an amount described in any of subparagraphs (a)(i) to (iv), or

**(ii)** the determination under section 28 of an investor percentage of the financial institution or other investment limited partnership as of a day in 2018.

#### **Investment limited partnerships — 2019**

**(2)** If an investment limited partnership is a selected listed financial institution throughout the reporting period of the investment limited partnership that includes January 1, 2019 and is not a selected listed financial institution throughout the preceding reporting period of the investment limited partnership,

**(a)** for the purposes of determining under section 28 an investor percentage of the investment limited partnership as of a day in 2018, the investment limited partnership is deemed to be a selected listed financial institution; and

**(b)** for the purposes of section 52, the investment limited partnership is deemed to be

**(i)** if the units of the investment limited partnership are issued in two or more series, a selected stratified investment plan throughout 2018, or

**(ii)** in any other case, a selected non-stratified investment plan throughout 2018.

#### **8 Subsection 3(1) applies in respect of**

**(a) any reporting period of a person that begins after 2018; and**

**(b) any reporting period of a person that begins in 2018 if the person is a listed financial institution throughout the reporting period of the person that includes January 1, 2018.**

**9 Subsections 3(2) to (5) and sections 4 to 7 are deemed to have come into force on September 8, 2017.**