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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 138

## **An Act to again amend the Taxation Act and other legislative provisions**

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**Introduction**

**Introduced by  
Mr Paul Bégin  
Minister of Revenue**

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## EXPLANATORY NOTES

*The main object of this bill is to harmonize the fiscal legislation of Québec with that of Canada. It consequently gives effect primarily to various harmonization measures announced in the Budget Speeches delivered by the Minister of State for the Economy and Finance on 31 March 1998 and 9 March 1999.*

*The bill amends the Taxation Act primarily to make amendments similar to various amendments made to the Canada Income Tax Act by federal Bill C-28 (S.C., 1998, chapter 19), assented to on 18 June 1998. The Taxation Act is also amended to make amendments similar to various amendments made to the Canada Income Tax Act by federal Bill C-72 (S.C., 1998, chapter 22), assented to on 17 June 1999 and by federal Bill C-61 (S.C., 1999, chapter 10), assented to on 25 March 1999, and various amendments made to the Canada Shipping Act by federal Bill C-15 (S.C., 1998, chapter 16), assented to on 11 June 1998. In particular, the amendments concern*

*(1) the adjustment measures relating to the tax treatment of the doubtful loans of financial institutions and other taxpayers carrying on a business of lending money, to reflect the new accounting standards established by the Canadian Institute of Chartered Accountants;*

*(2) the rules for computing income from securities held by financial institutions;*

*(3) the introduction of new rules to restrict the deductibility of certain expenses by prorating the deduction over the entire duration of the economic life of a right to future income;*

*(4) the introduction of new provisions permitting the cost or expenditure relating to the acquisition of a tax shelter to be taken off the unpaid principal amount of a debt related to the tax shelter or off the at-risk adjustment in its respect when computing that cost or expenditure;*

*(5) the technical changes to the rules used to establish the risk fraction of a limited partner's interest in a partnership for the purpose of computing the deductible losses attributable to the limited partner;*

*(6) the consolidation, improvement and standardization of loss limitation rules that apply to losses from the disposition of shares in respect of which shareholders have received exempt dividends ;*

*(7) the introduction of new rules which will allow investment corporations that become mutual fund corporations to avail themselves of the capital gains dividend rules ;*

*(8) the measures relating to the determination of transfer pricing ;*

*(9) the rules applicable where a partner has a residual interest, and the loss limitation rules that apply to a loss from the disposition of an interest in a partnership.*

*The bill amends the Taxation Act to make various technical amendments, including consequential and terminology-related amendments.*

*The bill also amends other legislation primarily to reflect certain amendments made to the Taxation Act and to make various technical amendments.*

**LEGISLATION AMENDED BY THIS BILL :**

- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the application of the Taxation Act (R.S.Q., chapter I-4);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting property tax refund (R.S.Q., chapter R-20.1);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Act to amend the Taxation Act and other legislative provisions (1996, chapter 39);
- Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85);
- Act to amend the Taxation Act and other legislative provisions (1999, chapter 83).



## **Bill 138**

### **AN ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### **TAXATION ACT**

**I.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 26 of chapter 83 of the statutes of 1999, by section 75 of chapter 86 of the statutes of 1999 and by section 4 of chapter 5 of the statutes of 2000, is again amended

(1) by inserting the following definition in alphabetical order :

““foreign stock exchange” means any of the following :

- (a) in Germany, the Frankfurt Stock Exchange ;
- (b) in Australia, the Australian Stock Exchange ;
- (c) in Belgium, the Brussels Stock Exchange ;
- (d) in Spain, the Madrid Stock Exchange ;
- (e) in the United States,
  - i. the American Stock Exchange,
  - ii. the Boston Stock Exchange,
  - iii. the Chicago Board of Options,
  - iv. the Chicago Board of Trade,
  - v. the Cincinnati Stock Exchange,
  - vi. the Intermountain Stock Exchange,
  - vii. the Midwest Stock Exchange,
  - viii. the National Association of Securities Dealers Automated Quotation System,

- ix. the New York Stock Exchange,
  - x. the Pacific Stock Exchange,
  - xi. the Philadelphia Stock Exchange, and
  - xii. the Spokane Stock Exchange ;
  - (*f*) in France, the Paris Stock Exchange ;
  - (*g*) in Hong Kong, the Hong Kong Stock Exchange ;
  - (*h*) in Ireland, the Irish Stock Exchange ;
  - (*i*) in Italy, the Milan Stock Exchange ;
  - (*j*) in Japan, the Tokyo Stock Exchange ;
  - (*k*) in Mexico, the Mexico City Stock Exchange ;
  - (*l*) in New Zealand, the New Zealand Stock Exchange ;
  - (*m*) in the Netherlands, the Amsterdam Stock Exchange ;
  - (*n*) in the United Kingdom, the London Stock Exchange ;
  - (*o*) in Singapore, the Singapore Stock Exchange ; and
  - (*p*) in Switzerland, the Zurich Stock Exchange ;” ;
- (2) by inserting, in the English text, the following definition in alphabetical order :
- ““Canadian stock exchange” means
- (*a*) the Alberta Stock Exchange ;
  - (*b*) the Montréal Stock Exchange ;
  - (*c*) the Toronto Stock Exchange ;
  - (*d*) the Vancouver Stock Exchange ; or
  - (*e*) the Winnipeg Stock Exchange ;” ;
- (3) by replacing paragraph *e* of the definition of “cost amount” by the following :

“(e) where the property was a right of the taxpayer to receive an amount, other than property that is a debt the amount of which was deducted under section 141 in computing the taxpayer’s income for a taxation year that ended before that time, a net income stabilization account, a right in respect of which any of paragraphs *b* to *c.1*, *d.1* and *d.2* applies, or a right to receive production, as defined in section 158.1, to which a matchable expenditure, as defined in section 158.1, relates, the amount the taxpayer has a right to receive;”;

(4) by striking out, in the English text, the definition of “stock exchange in Canada”;

(5) by replacing the definition of “lending assets” by the following:

““lending assets” means a bond, debenture, note, obligation secured by mortgage, agreement of sale or any other indebtedness, or a prescribed share, but does not include a prescribed property;”.

(2) Paragraphs 1, 2 and 4 of subsection 1 have effect from 26 November 1999.

(3) Paragraph 3 of subsection 1 has effect from 18 November 1996.

(4) Paragraph 5 of subsection 1 applies to taxation years that end after 30 September 1997 or, where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, to taxation years that end after 31 December 1995 and before 1 October 1997.

**2.** (1) Section 7.11.1 of the said Act is replaced by the following:

**“7.11.1.** For the purposes of this Part and the regulations, the following rules apply:

(a) a person or partnership beneficially interested in a particular trust includes any person or partnership that has any right, whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretionary power by any person or partnership, as a beneficiary under a trust to receive all or any part of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more trusts or partnerships;

(b) except for the purposes of this subparagraph, a particular person or partnership is deemed to be beneficially interested in a particular trust at a particular time where

i. the particular person or partnership is not beneficially interested in the particular trust at the particular time,

ii. because of the terms or conditions of the particular trust or any agreement in respect of the particular trust at the particular time, the particular person or partnership might, because of the exercise of any discretion by any person or partnership, become beneficially interested in the particular trust at the particular time or at a later time, and

iii. at or before the particular time, either the particular trust has acquired property, directly or indirectly in any manner whatever, from a person or partnership described in the second paragraph, or a person or partnership described in that paragraph has given a guarantee on behalf of the particular trust or provided any other financial assistance whatever to the particular trust; and

(c) a member of a partnership that is beneficially interested in a trust is deemed to be beneficially interested in the trust.

The person or partnership to which subparagraph iii of subparagraph *b* of the first paragraph refers is

(a) the particular person or partnership;

(b) another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length;

(c) a person or partnership with whom the other person referred to in subparagraph *b* does not deal at arm's length;

(d) a controlled foreign affiliate of the particular person or of another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length; or

(e) a corporation not resident in Canada that would, if the particular partnership were a corporation resident in Canada, be a controlled foreign affiliate of the particular partnership.”

(2) Subsection 1 applies from the taxation year 1998.

**3.** (1) Section 11.1.1 of the said Act is amended by replacing the portion before paragraph *c* by the following :

**“11.1.1.** For the purposes of this Part, a corporation that is incorporated or otherwise formed under the laws of a country other than Canada or of a state, province or other political subdivision of such a country is deemed to be resident in that country throughout a taxation year and not to be resident in Canada at any time in the year, where



(a) the corporation

i. has as its principal business in the year the operation of ships that are used primarily in transporting persons or goods in international traffic, determined on the assumption that the corporation is not resident in Canada and that, in the case of a voyage from Canada to a place outside Canada, any port or other place on the Great Lakes or St. Lawrence River is in Canada, or

ii. holds throughout the year shares of one or more other corporations, each of which is a subsidiary wholly-owned corporation of the corporation as defined by subsection 5 of section 544, and is deemed by this section to be resident in a country other than Canada throughout the year, and at no time in the year is the total of the cost amounts to the corporation of all those shares less than 50% of the total of the cost amounts to it of all its property ;

(b) all or substantially all of the corporation's gross revenue for the year consists of

i. gross revenue from the operation of ships in transporting persons or goods in that international traffic referred to in subparagraph i of paragraph *a*,

ii. dividends from one or more other corporations each of which is a subsidiary wholly-owned corporation of the corporation as defined by subsection 5 of section 544, and is deemed by this section to be resident in a country other than Canada throughout each of its taxation years that began after 28 February 1991 and before the last time at which it paid any of those dividends, or

iii. a combination of amounts described in subparagraphs i and ii ; and".

(2) Subsection 1 applies from the taxation year 1995.

**4.** (1) Section 21.1 of the said Act, amended by section 12 of chapter 5 of the statutes of 2000, is again amended by inserting, in the first paragraph, after "106.4," , "158.1 to 158.14,".

(2) Subsection 1 has effect from 18 November 1996.

**5.** (1) Section 21.6 of the said Act is amended by replacing paragraph *d* by the following :

"(d) a share that is listed on a Canadian stock exchange and was issued before 22 April 1980 by

i. a corporation referred to in any of paragraphs *a* to *d* of the definition of "specified financial institution" in section 1,

ii. a corporation whose principal business is the lending of money or the purchasing of debt obligations or a combination thereof, or

iii. an issuing corporation associated with a corporation described in subparagraph i or ii;”.

(2) Subsection 1 has effect from 23 February 1994. However, where the portion of paragraph *d* of section 21.6 of the said Act before subparagraph i, enacted by subsection 1, applies before 26 November 1999, it shall be read with the words “Canadian stock exchange” replaced by the words “prescribed stock exchange in Canada”.

**6.** (1) Section 21.9.1 of the said Act is amended by replacing, in subparagraphs i and ii of paragraph *b*, the words “on a prescribed stock exchange in Canada” by the words “on a Canadian stock exchange”.

(2) Subsection 1 has effect from 26 November 1999.

**7.** (1) Section 21.19 of the said Act is replaced by the following :

**“21.19.** “Canadian-controlled private corporation” means a private corporation that is a Canadian corporation other than a corporation

(a) controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada, by one or more public corporations, other than a prescribed corporation, or by any combination thereof;

(b) that would, if each share of the capital stock of a corporation that is owned by a person not resident in Canada or a public corporation, other than a prescribed corporation, were owned by a particular person, be controlled by the particular person ; or

(c) a class of the shares of the capital stock of which is listed on a Canadian stock exchange or a foreign stock exchange.”

(2) Subsection 1 has effect from 1 January 1996.

**8.** (1) Section 87 of the said Act, amended by section 30 of chapter 83 of the statutes of 1999 and by section 30 of chapter 5 of the statutes of 2000, is again amended

(1) by replacing paragraph *c* by the following :

“(c) subject to sections 92 and 92.1.1, any amount received or receivable by the taxpayer in the year as interest, depending on the method regularly followed by the taxpayer in computing the taxpayer’s income, to the extent that the interest was not included in computing the taxpayer’s income for a preceding taxation year;”;

(2) by inserting, after paragraph *g*, the following paragraph :

“(g.1) any proceeds of disposition in respect of which section 158.6 applies;”;

(3) by replacing the portion of paragraph w before subparagraph i by the following :

“(w) any particular amount, other than a prescribed amount, received by the taxpayer in the year, in the course of earning income from a business or property, from a person who pays the particular amount in the course of earning income from a business or property or in order to achieve a benefit for the payer or for persons with whom the payer does not deal at arm’s length, or from a government, municipality or other public authority where the particular amount may reasonably be considered to have been received as a refund, reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of an amount included in, or deducted as, the cost of property or in respect of an outlay or expense, or as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, to the extent that the particular amount”.

(2) Paragraph 1 of subsection 1 applies to taxation years that end

(1) after 30 September 1997 ; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

(3) Paragraph 2 of subsection 1 applies in respect of dispositions that occur after 17 November 1996.

(4) Paragraph 3 of subsection 1 applies in respect of amounts received after 31 December 1990.

**9.** (1) Section 90 of the said Act is replaced by the following :

**“90.** Section 89 applies where the amount mentioned therein becomes receivable by the State or Her Majesty in right of Canada or a province, other than Québec, by a mandatary of the State or Her Majesty in right of Canada or a province, other than Québec, or by a corporation, commission or association that is controlled by the State or Her Majesty in right of Canada or a province, other than Québec, or a mandatary of the State or Her Majesty in right of Canada or a province, other than Québec.”

(2) Subsection 1 has effect from 12 June 1998.

**10.** (1) Section 92 of the said Act is amended by replacing the first paragraph by the following :

**“92.** Subject to section 92.1.1, in computing its income for a taxation year, a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary shall include any interest on a debt obligation that accrues to it to the end of the year, or becomes receivable or is received by it before the end of the year, to the extent that the interest was not included in computing its income for a preceding taxation year.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**11.** (1) Section 92.1 of the said Act is replaced by the following :

**“92.1.** Subject to section 92.1.1, where in a taxation year a taxpayer, other than a taxpayer to whom section 92 applies, holds an interest in an investment contract on any anniversary day of the contract, the taxpayer shall include in computing the taxpayer’s income for the year the interest that accrued to the taxpayer to the end of that day with respect to the investment contract, to the extent that the interest was not otherwise included in computing the taxpayer’s income for the year or any preceding taxation year.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**12.** (1) The said Act is amended by inserting, after section 92.1, the following section :

**“92.1.1.** Paragraph *c* of section 87 and sections 92 and 92.1 do not apply to a taxpayer in respect of a debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer’s income for the year.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**13.** (1) Section 92.18 of the said Act is replaced by the following :

**“92.18.** For the purposes of this Part, a rider added at any time after 31 December 1989 to a life insurance policy last acquired before 1 January 1990 that provides additional life insurance is deemed to be a separate life insurance policy issued at that time, unless the only additional life insurance provided by the rider is an accidental death benefit or the life insurance policy is an exempt policy last acquired before 1 December 1982 or an annuity contract.”

(2) Subsection 1 applies in respect of riders added after 31 December 1989.

**14.** (1) Section 93.7 of the said Act, amended by section 293 of chapter 5 of the statutes of 2000, is again amended, in the first paragraph,

(1) by replacing subparagraph *d* by the following :

“(d) the time at which the property

i. has been delivered to the taxpayer, or to a person or partnership that will use the property for the benefit of the taxpayer, or, where the property is not of a type that is deliverable, is made available to the taxpayer or the person or partnership, and

ii. is capable, either alone or in combination with other property in the possession at that time of the taxpayer or the person or partnership referred to in subparagraph i, of being used by or for the benefit of the taxpayer or that person or partnership to produce a commercially saleable product or to perform a commercially saleable service, including an intermediate product or service that is used or consumed, or to be used or consumed, by or for the benefit of the taxpayer or the person or partnership in producing or performing any such product or service,”;

(2) by replacing subparagraph *f* by the following :

“(f) in the case of property acquired by a corporation a class of shares of the capital stock of which is listed on a Canadian stock exchange or a foreign stock exchange, a corporation that is a public corporation by reason of an election made under subparagraph i of paragraph *b* of the definition of “public corporation” in subsection 1 of section 89 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or a designation made by the Minister of Revenue of Canada in a notice to the corporation under subparagraph ii of paragraph *b* of that definition, or a subsidiary wholly-owned corporation of any such corporation, the end of the taxation year for

which depreciation in respect of the property is first deducted in computing the earnings of the corporation in accordance with generally accepted accounting principles and for the purposes of the financial statements of the corporation for the year presented to its shareholders.”.

(2) Paragraph 1 of subsection 1 applies in respect of property acquired after 31 December 1989.

(3) Paragraph 2 of subsection 1 has effect from 26 November 1999.

**15.** (1) Section 96 of the said Act is amended

(1) by replacing the portion of subsection 2 before paragraph *a* by the following:

“(2) The taxpayer, in the taxpayer’s fiscal return filed in accordance with section 1000 for the taxation year in which the taxpayer acquires a depreciable property of a prescribed class of the taxpayer that is a replacement property for the former property of the taxpayer, may elect that the following rules apply:”;

(2) by replacing subsection 3 by the following:

“(3) For the purposes of this section, a depreciable property of a prescribed class of a taxpayer is a replacement property for the taxpayer’s former property where

(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the property was acquired by the taxpayer either for the purpose of gaining or producing income from that or a similar business or for use by a person related to the taxpayer for such a purpose; and

(c) where the former property was taxable Canadian property, or would have been taxable Canadian property if the taxpayer had been resident in Canada at no time in the year in which the former property was disposed of and the former property had been used in a business carried on by the taxpayer, the property is taxable Canadian property, or would have been taxable Canadian property if the taxpayer had been resident in Canada at no time in the year in which the depreciable property was acquired and the depreciable property were used in a business carried on by the taxpayer.”

(2) Subsection 1 applies in respect of dispositions of former property that occur after 31 December 1993. However, if the taxpayer so elects, in respect of a former property that was disposed of before 18 June 1998, by notifying the Minister of Revenue in writing on or before the taxpayer's filing-due date for the taxpayer's first taxation year that ends after (*insert the date of assent to this Act*), paragraph *a.1* of subsection 3 of section 96 of the said Act, enacted by paragraph 2 of subsection 1, shall be read as follows for the purpose of determining if a property is a replacement property of a former property :

“(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property ;”.

(3) In the case of a taxpayer who files an election under subsection 2, the Minister of Revenue shall, for the purposes of the application of Part I and notwithstanding sections 1010 to 1011 of the said Act, make such assessments of the taxpayer's tax, interest and penalties as are necessary for any taxation year to give effect to the taxpayer's election, and sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

**16.** (1) Section 110.1 of the said Act is replaced by the following :

**“110.1.** (1) Where, in a taxation year, a taxpayer disposes of an intangible capital property, in this section referred to as “former property”, and the taxpayer so elects, under this section, in the taxpayer's fiscal return for the taxation year in which the taxpayer acquires an intangible capital property that is a replacement property for the taxpayer's former property, that part of the amount that would otherwise be included in the aggregate determined under subparagraph ii of paragraph *b* of section 107 in respect of a business, if that subparagraph were read without reference to “3/4 of”, as has been used by the taxpayer before the end of the first taxation year after the end of the taxation year in which the former property was disposed of by the taxpayer to acquire the replacement property shall, to the extent of 3/4 thereof, be included in that aggregate for the purpose of computing the eligible intangible capital amount of the taxpayer in respect of the business, only from the later of the time the replacement property was acquired by the taxpayer and the time the former property was disposed of by the taxpayer.

(2) For the purposes of this section, an intangible capital property of a taxpayer is a replacement property for a former property of a taxpayer where

(a) it is reasonable to conclude that the intangible capital property was acquired by the taxpayer to replace the former property ;

(a.1) the intangible capital property was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer put the former property ;

(b) the intangible capital property was acquired by the taxpayer for the purpose of gaining or producing income from a business similar to the business in which the former property was used; and

(c) the former property was used by the taxpayer in a business carried on in Canada and the intangible capital property was acquired for use by the taxpayer in a business carried on by the taxpayer in Canada.”

(2) Subsection 1 applies in respect of dispositions of former property that occur after 31 December 1993.

**17.** (1) Section 112.1 of the said Act is amended by replacing “subsection 1” by “the first paragraph”.

(2) Subsection 1 has effect from 27 April 1995.

**18.** (1) Section 125.0.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

“**125.0.1.** For the purposes of this Part and subject to section 125.0.3, where at any time in a taxpayer’s taxation year an interest in an indexed debt obligation is held by the taxpayer, the following rules apply:”.

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**19.** (1) The said Act is amended by inserting, after section 125.0.2, the following section:

“**125.0.3.** Section 125.0.1 does not apply to a taxpayer in respect of an indexed debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer’s income for the year.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.



**20.** (1) Section 140 of the said Act is amended

(1) by replacing, in the English text, the portion before paragraph *a* by the following :

“**140.** A taxpayer may deduct in computing the taxpayer’s income for a taxation year, as a reserve, the aggregate of”;

(2) by replacing paragraphs *a* and *b* by the following :

“(a) a reasonable amount in respect of doubtful debts, other than a debt in respect of which paragraph *b* applies, that have been included in computing the taxpayer’s income for the year or a preceding taxation year, and

“(b) where the taxpayer is a financial institution, within the meaning of section 851.22.1, in the year or a taxpayer whose ordinary business includes the lending of money, an amount not exceeding the particular amount determined for the year under section 140.1 in respect of properties, other than mark-to-market properties, as defined in the first paragraph of that section 851.22.1, that are impaired loans or lending assets that are specified debt obligations, as defined in that paragraph, of the taxpayer, or impaired loans or lending assets that were made or acquired by the taxpayer in the ordinary course of the taxpayer’s business of insurance or the lending of money.”

(2) Paragraph 2 of subsection 1, where it enacts paragraph *a* of section 140 of the said Act, applies to taxation years that end

(1) after 30 September 1997 ; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

(3) Paragraph 2 of subsection 1, where it enacts paragraph *b* of section 140 of the said Act, applies to taxation years that end after 22 February 1994.

**21.** (1) Section 140.1 of the said Act is amended

(1) by replacing, in the English text, the portion before paragraph *a* by the following :

“**140.1.** The particular amount, referred to in paragraph *b* of section 140, for a taxation year in respect of impaired loans or lending assets of a taxpayer is equal to the aggregate of”;

(2) by replacing paragraphs *a* and *b* by the following :

“(a) the percentage, not exceeding 100%, that the taxpayer claims of the prescribed reserve amount for the taxpayer for the year, and

“(b) in respect of loans, lending assets or specified debt obligations that are impaired and for which no amount was deductible for the year under subparagraph *a*, each of which in this paragraph is referred to as a “particular loan”, the taxpayer’s specified percentage for the year of the lesser of

i. the aggregate of all amounts each of which is a reasonable amount as a reserve, other than any portion of which is in respect of a sectoral reserve, for a particular loan in respect of the amortized cost of the particular loan to the taxpayer at the end of the year, and

ii. the amount determined by the formula

$0.9A - B$ .”;

(3) by adding the following paragraph:

“In the formula provided for in subparagraph ii of subparagraph *b* of the first paragraph,

(a) *A* is the amount that is the taxpayer’s reserve or allowance for impairment, other than any portion of the amount that is in respect of a sectoral reserve, for all of the taxpayer’s particular loans that is determined for the year in accordance with generally accepted accounting principles; and

(b) *B* is the aggregate of all amounts each of which is the specified reserve adjustment for a particular loan, other than an income bond, an income debenture, a small business bond or small business development bond, for the year or a preceding taxation year.”

(2) Paragraphs 2 and 3 of subsection 1 apply to taxation years that end

(1) after 30 September 1997; or

(2) after 31 December 1995 and before 1 October 1997 where the taxpayer elects in writing to have subsection 1 apply to the year and files the election with the Minister of Revenue before the end of the sixth month after the month that includes (*insert the date of assent to this Act*).

(3) In the case of a taxpayer who files an election under paragraph 2 of subsection 2, the Minister of Revenue shall, for the purposes of the application of Part I of the said Act and notwithstanding sections 1010 to 1011 of the said Act, make such assessments of the taxpayer’s tax, interest and penalties as are necessary for any taxation year to give effect to the taxpayer’s election, and sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

(4) In addition, where section 140.1 of the said Act, replaced by subsection 1, applies to a taxation year that ends after 22 February 1994 and before 1 October 1997 or, where an election under paragraph 2 of subsection 2 was made by the

taxpayer, before 1 January 1996, subparagraph 2 of subparagraph ii of paragraph *b* of that section 140.1 shall be read as follows :

“(2) the aggregate of all amounts included under section 92 or paragraph *a* of section 851.22.4 in computing the taxpayer’s income for the year or a preceding taxation year to the extent that those amounts reduced the part of the reserve referred to in subparagraph 1.”

**22.** (1) The said Act is amended by inserting, after section 140.1, the following sections :

**“140.1.1.** For the purposes of subparagraph i of subparagraph *b* of the first paragraph of section 140.1, a sectoral reserve is a reserve or an allowance for impairment for a loan that is determined on a sector-by-sector basis, including a geographic sector, an industrial sector or a sector of any other nature, and not on a property-by-property basis.

**“140.1.2.** For the purposes of subparagraph *b* of the first paragraph of section 140.1, a taxpayer’s specified percentage for a taxation year is

(*a*) where the taxpayer has a prescribed reserve amount for the year for the purposes of subparagraph *a* of the first paragraph of section 140.1, the percentage that is the percentage of the prescribed reserve amount of the taxpayer for the year claimed by the taxpayer under that subparagraph *a* for the year ; and

(*b*) in any other case, 100%.

**“140.1.3.** For the purposes of subparagraph *b* of the second paragraph of section 140.1, the specified reserve adjustment for a loan of a taxpayer for a taxation year is the amount determined by the formula

$$0.1(A \times B \times C/365) .$$

In the formula provided for in the first paragraph,

(*a*) A is the carrying amount of the impaired loan that is used or would be used in determining the interest income on the loan for the taxation year in accordance with generally accepted accounting principles ;

(*b*) B is the effective interest rate on the loan for the year determined in accordance with generally accepted accounting principles ; and

(*c*) C is the number of days in the taxation year on which the loan is impaired.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**23.** (1) Section 140.2 of the said Act is amended

(1) by replacing, in the English text, the portion before paragraph *b* by the following :

**“140.2.** A taxpayer who is an insurer or whose ordinary business includes the lending of money may deduct in computing the taxpayer’s income for a taxation year, as a reserve in respect of credit risks under guarantees, indemnities, letters of credit or other credit facilities, bankers’ acceptances, interest rate or currency swaps, foreign exchange or other future or option contracts, interest rate protection agreements, risk participations and other similar instruments or commitments issued, made or assumed by the taxpayer in the ordinary course of the taxpayer’s business of insurance or the lending of money in favour of persons with whom the taxpayer deals at arm’s length, an amount not exceeding the lesser of

(*a*) a reasonable amount as a reserve for credit risk losses of the taxpayer expected to arise after the end of the year in respect of those instruments or commitments, and”;

(2) by replacing paragraph *b* by the following :

*“(b) 90% of the reserve for credit risk losses referred to in paragraph a determined for the year in accordance with generally accepted accounting principles.”*

(2) Paragraph 2 of subsection 1 applies to taxation years that end

(1) after 30 September 1997; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**24.** (1) Section 141 of the said Act is amended

(1) by replacing, in the English text, the portion before paragraph *b* by the following :

**“141.** A taxpayer may deduct in computing the taxpayer’s income for a taxation year the aggregate of

(a) all debts owing to the taxpayer that have been included by the taxpayer in computing the taxpayer's income for the year or a preceding taxation year and that are established by the taxpayer to have become bad debts in the year, and";

(2) by replacing paragraph *b* by the following :

“(b) all amounts each of which is that part of the amortized cost to the taxpayer at the end of the year of a loan or lending asset, other than a mark-to-market property, as defined in section 851.22.1, that is established in the year by the taxpayer to have become uncollectible and that,

i. where the taxpayer is an insurer or a taxpayer whose ordinary business includes the lending of money, was made or acquired in the ordinary course of the taxpayer's business of insurance or the lending of money, or

ii. where the taxpayer is a financial institution, within the meaning of section 851.22.1, in the year, is a specified debt obligation, as defined in the first paragraph of that section, of the taxpayer.”

(2) Paragraph 2 of subsection 1 applies to taxation years that end after 22 February 1994.

**25.** The said Act is amended by inserting, after section 158, the following :

#### **“DIVISION X.1**

#### **“EXPENDITURES MATCHABLE WITH A RIGHT TO RECEIVE PRODUCTION**

**“158.1.** In this division,

“matchable expenditure” of a taxpayer means the amount of an expenditure that is made by the taxpayer to

(a) acquire a right to receive production ;

(b) fulfil a covenant or obligation in circumstances in which it is reasonable to consider that a relationship exists between the covenant or obligation and a right to receive production ; or

(c) preserve or protect a right to receive production ;

“right to receive production” means a right under which a taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount all or a portion of which is established by reference to use of property, production, revenue, profit, cash flow, commodity price, cost or value of property or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares where the amount is in

respect of another taxpayer's activity, property or business but such a right does not include an income interest in a trust, a Canadian resource property or a foreign resource property;

"tax benefit" means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act;

"tax shelter" means a property that would be a tax shelter, as defined in section 1079.1, if

(a) the cost of a right to receive production were equal to the aggregate of all amounts each of which is a matchable expenditure to which the right relates; and

(b) sections 158.2 to 158.12 did not apply for the purpose of computing an amount, or in the case of a partnership a loss, represented to be deductible;

"taxpayer" includes a partnership.

For the purposes of the definition of "matchable expenditure" in the first paragraph, the amount of an expenditure that a taxpayer may deduct in computing the taxpayer's income for a taxation year under this chapter, otherwise than under this division, is not a matchable expenditure.

**"158.2.** Subject to section 158.3, no amount of a matchable expenditure may be deducted by a taxpayer in computing the taxpayer's income from a business or property for a taxation year.

**"158.3.** If a taxpayer's matchable expenditure would, but for section 158.2 and this section, be deductible in computing the taxpayer's income for a taxation year, the taxpayer may deduct in respect of the matchable expenditure in computing the taxpayer's income for a taxation year the amount that is determined under section 158.4 for the year in respect of the expenditure.

**"158.4.** The amount to which section 158.3 refers for a taxation year in respect of a taxpayer's matchable expenditure is the amount that is the least of

(a) the aggregate of the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year and the lesser of

i. 1/5 of the matchable expenditure, and

ii. the amount determined by the formula

$(A/B) \times C$ ;

(b) the aggregate of all amounts each of which is included in computing the taxpayer's income for the year, other than any portion of such amount that is the subject of a reserve claimed by the taxpayer for the year under this Act, in respect of the right to receive production to which the matchable expenditure relates and the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year; and

(c) the amount by which the aggregate of all amounts each of which is the amount of the matchable expenditure that would, but for this division, have been deductible in computing the taxpayer's income for the year or a preceding taxation year exceeds the aggregate of all amounts each of which is the amount of the matchable expenditure deductible under section 158.3 in computing the taxpayer's income for a preceding taxation year.

In the formula provided for in subparagraph *a* of the first paragraph,

(a) A is the number of months that are in the taxation year and after the day on which the right to receive production to which the matchable expenditure relates is acquired;

(b) B is the lesser of 240 and the number of months that are in the period that begins on the day on which the right to receive production to which the matchable expenditure relates is acquired and that ends on the day the right is to terminate; and

(c) C is the amount of the matchable expenditure.

**“158.5.** For the purposes of this division, the following rules apply:

(a) where a taxpayer's matchable expenditure is made before the day on which the related right to receive production is acquired by the taxpayer, the expenditure is deemed to have been made on that day;

(b) where a taxpayer has one or more rights to renew a particular right to receive production to which a matchable expenditure relates for one or more additional terms, after the term that includes the time at which the particular right was acquired, the particular right is deemed to terminate on the latest day on which the latest possible such term could terminate if all rights to renew the particular right were exercised;

(c) where a taxpayer has more than one right to receive production that can reasonably be considered to be related to each other, the rights are deemed to be one right; and

(d) where the term of a taxpayer's right to receive production is for an indeterminate period, the right is deemed to terminate 20 years after it is acquired.

**“158.6.** Where in a taxation year a taxpayer disposes of all or part of a right to receive production to which a matchable expenditure relates, the proceeds of the disposition shall be included in computing the taxpayer’s income for the year.

**“158.7.** Subject to sections 158.8 and 158.9, the amount that a taxpayer may deduct, under section 158.3, in computing the taxpayer’s income for a taxation year, in respect of a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to this section, be deductible under section 158.3 in computing the taxpayer’s income, is deemed to be the amount determined under subparagraph *c* of the first paragraph of section 158.4 for the year in respect of the matchable expenditure where in the year

(a) the taxpayer disposes, otherwise than in a disposition to which subsections 1 and 2 of section 544 or sections 556 to 564.1 and 565 apply, of all of the taxpayer’s right to receive production to which the matchable expenditure relates ; or

(b) the taxpayer’s right to receive production to which the matchable expenditure relates has expired.

**“158.8.** Section 158.9 applies where a taxpayer’s particular right to receive production to which a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to sections 158.7 and 158.9, be deductible under section 158.3 in computing the taxpayer’s income, relates has expired or the taxpayer has disposed of all of the right, otherwise than in a disposition to which subsections 1 and 2 of section 544 or sections 556 to 564.1 and 565 apply, and

(a) where

i. during the period that begins 30 days before and ends 30 days after the disposition or expiry, the taxpayer or a person affiliated, or who does not deal at arm’s length, with the taxpayer acquires a right to receive production, in this section and section 158.9 referred to as the “substituted property”, that is, or is identical to, the particular right, and

ii at the end of the period referred to in subparagraph i, the taxpayer or a person affiliated, or who does not deal at arm’s length, with the taxpayer owns the substituted property ; or

(b) during the period that begins at the time of the disposition or expiry and ends 30 days after that time, a taxpayer that had an interest, directly or indirectly, in the right to receive production, has another interest, directly or indirectly, in another right to receive production, which is a tax shelter or a tax shelter investment as defined by section 851.38.



**“158.9.** Where this section applies because of section 158.8 to a disposition or expiry in a taxation year or a preceding taxation year of a taxpayer’s right to receive production to which a matchable expenditure relates, the following rules apply :

(a) the amount that may be deducted under section 158.3 in respect of the expenditure in computing the taxpayer’s income for a taxation year that ends at or after the disposition or expiry of the right is the amount determined under section 158.4 for the year in respect of the expenditure ; and

(b) the amount determined under section 158.4 in respect of the expenditure for a taxation year is deemed to be the amount determined under subparagraph *c* of the first paragraph of section 158.4 in respect of the expenditure for the year where the year includes the time that is immediately before the first time, after the disposition or expiry,

i. at which the right would, if it were owned by the taxpayer, be deemed by Title I.1 of Book VI or section 999.1 to have been disposed of by the taxpayer,

ii. that is immediately before control of the taxpayer is acquired by a person or group of persons, if the taxpayer is a corporation,

iii. at which winding-up of the taxpayer begins, other than a winding-up to which sections 556 to 564.1 and 565 apply, if the taxpayer is a corporation,

iv. where section 158.8 applies otherwise than because of paragraph *b* thereof, at which a 30-day period begins throughout which neither the taxpayer nor a person affiliated, or who does not deal at arm’s length, with the taxpayer owns the substituted property, or a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period began, or

v. where section 158.8 applies otherwise than because of paragraph *a* thereof, at which a 30-day period begins throughout which no taxpayer who had an interest, directly or indirectly, in the right has an interest, directly or indirectly, in another right to receive production if one or more of those direct or indirect interests in the other right is a tax shelter or tax shelter investment as defined by section 851.38.

**“158.10.** For the purposes of paragraph *b* of section 158.9, where a partnership ceases to exist at any time after a disposition or expiry referred to in section 158.9, the partnership is deemed not to have ceased to exist, and each taxpayer who was a member of the partnership immediately before the partnership would, but for this section, have ceased to exist is deemed to remain a member of the partnership until the time that is immediately after the first of the times described in subparagraphs *i* to *v* of paragraph *b* of section 158.9.

**“158.11.** For the purpose of applying section 158.8, otherwise than because of paragraph *b* thereof, and section 158.9, a right to acquire a particular right to receive production, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation, is deemed to be a right to receive production that is identical to the particular right.

**“158.12.** For the purpose of applying Title VIII of Book VI to an amount that would, if this division were read without reference to this section, be a matchable expenditure any portion of the cost of which is deductible under section 158.3, the expenditure is deemed to be a tax shelter investment and that Title VIII shall be read without reference to paragraph *b* of section 851.41.

**“158.13.** Where the rate of return on a taxpayer’s right to receive production to which a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to this section, be deductible under section 158.3 in computing the taxpayer’s income, relates is reasonably certain at the time the taxpayer acquires the right, the following rules apply :

(a) for the purposes of section 92.5 and the regulations made under that section,

i. the right is deemed to be a debt obligation in respect of which no interest is stipulated to be payable in respect of the principal amount, and

ii. the obligation is deemed to be satisfied at the time the right terminates for an amount equal to the total of the return on the debt obligation and the amount that would otherwise be the matchable expenditure that is related to the right ; and

(b) notwithstanding section 158.3, no amount may be deducted in computing the taxpayer’s income in respect of any matchable expenditure that relates to the right.

**“158.14.** Subject to sections 158.1 and 158.13, this division does not apply to a taxpayer’s matchable expenditure in respect of a right to receive production if no portion of the expenditure can reasonably be considered to have been paid to another taxpayer, or to a person with whom the other taxpayer does not deal at arm’s length, to acquire the right to receive production from the other taxpayer and

(a) the taxpayer’s expenditure cannot reasonably be considered to relate to a tax shelter or tax shelter investment, as defined by section 851.38, and none of the main purposes for making the expenditure is that the taxpayer, or a person with whom the taxpayer does not deal at arm’s length, obtain a tax benefit; or

(b) before the end of the taxation year in which the expenditure is made, the aggregate of all amounts each of which is included in computing the taxpayer's income for the year, other than any portion of such an amount that is the subject of a reserve claimed by the taxpayer for the year under this Act, in respect of the right to receive production to which the matchable expenditure relates, exceeds 80% of the expenditure.”

(2) Subsection 1 applies in respect of expenditures made by a taxpayer or a partnership after 17 November 1996, with the exception of the following expenditures in respect of a particular right to receive production :

(1) an expenditure made before 1 January 1997 pursuant to an agreement in writing made by the taxpayer or the partnership before that date to acquire the particular right as consideration for the payment of selling commissions incurred before that date in relation to the distribution of shares of a mutual fund corporation or units of a mutual fund trust or to render production services before that date for a film or video production ;

(2) an expenditure made before 1 August 1997 if

(a) the expenditure was made pursuant to an agreement in writing made by the taxpayer or the partnership before 1 August 1997 to acquire the particular right as consideration for the payment of selling commissions incurred after 31 December 1996 but before 1 August 1997 in relation to the distribution of shares of a mutual fund corporation or units of a mutual fund trust that is managed by an administrator of mutual funds,

(b) the particular right to receive production was identified in an application for an advance ruling filed with the Minister of Revenue before 19 December 1996,

(c) the aggregate of the expenditures made by any taxpayer or partnership in respect of all of the rights identified in the application for an advance ruling referred to in subparagraph *b* does not exceed \$30,000,000, and

(d) all tax shelter investments, as defined in section 851.38 of the said Act, enacted by subsection 1 of section (*insert the number of the section in this Bill that enacts section 851.38 of the Taxation Act*), that can reasonably be considered to relate to the expenditure were acquired before 1 August 1997 ;

(3) an expenditure made before 1 August 1997 if

(a) the expenditure is made pursuant to an agreement in writing made by the taxpayer or the partnership before 1 August 1997 to acquire the particular right as consideration for the payment of selling commissions incurred after 31 December 1996 but before 1 August 1997 in relation to the distribution of shares of a mutual fund corporation or units of a mutual fund trust that is managed by an administrator of mutual funds, other than an administrator that is or is related to an administrator referred to in paragraph 2 in respect of

commissions incurred in relation to the distribution of shares or units referred to in that paragraph,

(b) the aggregate of all expenditures made by any taxpayer or partnership to acquire particular rights as consideration for the payment of selling commissions in relation to the distribution of shares of a mutual fund corporation or units of a mutual fund trust that is managed by the administrator of mutual funds or any other person that is related to the administrator does not exceed \$10,000,000, and

(c) all tax shelter investments, as defined in section 851.38 of the said Act, enacted by subsection 1 of section (*insert the number of the section in this Bill that enacts section 851.38 of the Taxation Act*), that can reasonably be considered to relate to the expenditure were acquired before 1 August 1997;

(4) an expenditure made before 1 November 1997 pursuant to an agreement in writing made by the taxpayer or the partnership before that date to acquire the particular right and to render production services before that date for a film or video production if

(a) at least 75% of the expenditures made in respect of the film or video production by the taxpayer or partnership pertain to services performed in Canada by persons resident in Canada, and

(b) all tax shelter investments, as defined in section 851.38 of the said Act, enacted by subsection 1 of section (*insert the number of the section in this Bill that enacts section 851.38 of the Taxation Act*), that can reasonably be considered to relate to the expenditure were acquired before 1 November 1997;

(5) subject to subsection 3, an expenditure made before 1 January 1998 pursuant to an agreement in writing made by the taxpayer or the partnership before 18 November 1996 to acquire the particular right;

(6) subject to subsection 3, an expenditure made before 1 January 1998 if

(a) the expenditure was made pursuant to the terms of a document that is a final prospectus, preliminary prospectus or registration statement filed before 19 December 1996 with a public authority in Canada in accordance with the securities legislation of Canada or of a province and, where required by law, accepted for filing by the public authority,

(b) the particular right is identified in the document, and

(c) all the funds raised pursuant to the terms of the document were raised before 1 January 1997 and all tax shelter investments, as defined in section 851.38 of the said Act, enacted by subsection 1 of section (*insert the number of the section in this Bill that enacts section 851.38 of the Taxation Act*), that

can reasonably be considered to relate to the expenditure were acquired before 1 August 1997;

(7) subject to subsection 3, an expenditure made before 1 January 1998 pursuant to the terms of an offering memorandum distributed as part of an offering of securities if

(a) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

(b) the memorandum was distributed before 19 December 1996,

(c) solicitations in respect of the sale of the securities contemplated by the memorandum were made before 19 December 1996,

(d) the sale of the securities was substantially in accordance with the memorandum,

(e) the particular right is identified in the document, and

(f) all the funds raised pursuant to the terms of the memorandum were raised before 1 January 1997 and all tax shelter investments, as defined in section 851.38 of the said Act, enacted by subsection 1 of section (*insert the number of the section in this Bill that enacts section 851.38 of the Taxation Act*), that can reasonably be considered to relate to the expenditure were acquired before 1 August 1997.

(3) Paragraphs 5 to 7 of subsection 2 apply to an expenditure only if

(1) there is no agreement or other arrangement under which the obligations of the taxpayer or the partnership in respect of the expenditure can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act,

(2) where the expenditure is associated with one or more tax shelters sold or offered for sale at a time and in circumstances in which Book X.1 of Part I of the said Act requires an identification number to be obtained, an identification number was obtained before that time, and

(3) in the case of an expenditure, including an expenditure to which paragraph 5 of subsection 2 applies, made pursuant to a document described in paragraph 6 or 7 of that subsection 2, a portion of the securities authorized to be sold in 1996 pursuant to the document was, after 31 December 1995 and before 19 December 1996, sold to, or subscribed by, a person who was not, at the time of the sale or subscription,

(a) a promoter, or the agent of a promoter, of securities,

(b) a grantor of the right to receive production to which the expenditure relates,

(c) a broker or dealer in securities, or

(d) a person related to a person referred to in subparagraph *a* or *b*.

(4) For the purposes of paragraphs 1 and 4 of subsection 2, an expenditure is deemed to have been made not earlier than the time and only to the extent that it is considered for the purposes of the said Act to have been made and, in the case where production services are rendered for a film or video production, only to the extent that the services are rendered at or before that time.

(5) For the purposes of paragraphs 2 and 3 of subsection 2, an expenditure is deemed to have been made not earlier than the time and only to the extent that it is considered for the purposes of the said Act to have been made.

(6) For the purposes of paragraphs 5 to 7 of subsection 2, where an expenditure relates to service obligations to be fulfilled by the taxpayer or partnership, the expenditure is deemed to have been made not earlier than the time and only to the extent that it is considered for the purposes of the said Act to have been made and only to the extent that the services are rendered at or before that time.

**26.** (1) Section 175.1.1 of the said Act is amended by replacing, in the portion before subparagraph *a* of the first paragraph, “Where,” by “Subject to section 851.22.13.1, where,”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**27.** (1) Section 176 of the said Act is amended by replacing the second paragraph by the following:

“The taxpayer may not, however, deduct any amount paid or payable as or on account of the principal amount of the indebtedness or as or on account of interest.”

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1987.

**28.** (1) Section 194 of the said Act, amended by section 50 of chapter 5 of the statutes of 2000, is again amended, in the third paragraph,

(1) by replacing subparagraph *a* by the following:

“(a) all amounts, other than an amount described in section 198, that were paid in the year, or are deemed by this Part to have been paid in the year, in the course of carrying on the business,

i. in the case of amounts paid, or deemed by this Part to have been paid, for the inventory relating to the business, in payment of or on account of an amount that would be deductible in computing the income from the business for the year or any other taxation year if that income were not computed in accordance with this cash method, and

ii. in any other case, in payment of or on account of an amount that would be deductible in computing the income from the business for a preceding taxation year, the year or the following taxation year if that income were not computed in accordance with this cash method;”;

(2) by inserting, after subparagraph *a*, the following subparagraph :

“(a.1) all amounts, other than an amount described in section 198, that would be deductible in computing the income from the business for the year if that income were not computed in accordance with this cash method, that are not deductible in computing the income from the business for any other taxation year, and that were paid in a preceding taxation year in the course of carrying on the business;”.

(2) Subsection 1 applies in respect of amounts paid after 26 April 1995, other than amounts paid pursuant to an agreement in writing made by the payer before 27 April 1995.

**29.** (1) Section 247.2 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“**247.2.** Where, at any time in a taxation year, an individual owns capital property that is a share of a class of the capital stock of a corporation that, at that time, is a small business corporation and, immediately after that time, ceases to be a small business corporation because a class of the shares of its capital stock is listed on a Canadian stock exchange or a foreign stock exchange and the individual elects in prescribed form to have this section apply, the individual is deemed, except for the purposes of Division VI of Chapter II of Title II, Division IX of Chapter V of Title III and section 725.3,”.

(2) Subsection 1 applies in respect of corporations that cease to be a small business corporation after 31 December 1995.

(3) However, an election under the portion of section 247.2 of the said Act before paragraph *a*, enacted by subsection 1, that is made by an individual for the taxation year 1995 is deemed to have been made within the time limit provided for in section 247.3 of that Act if

(1) a class of the shares of the capital stock of the corporation in respect of which the election is made was, on 1 January 1996, listed on a foreign stock exchange mentioned in paragraph *b* of section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1);

(2) the corporation was a small business corporation on 31 December 1995; and

(3) the election is made before the end of the sixth month after the month that includes *(insert the date of assent to this Act)*.

(4) Where subsection 3 applies, the Minister of Revenue shall, notwithstanding sections 1010 to 1011 of the said Act, make such assessments of the taxpayer's tax, interest and penalties as are necessary for any taxation year to give effect to the taxpayer's election, and sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

**30.** (1) Section 255 of the said Act, amended by section 68 of chapter 5 of the statutes of 2000, is again amended

(1) by replacing, in paragraph *b*, “741 or 742” by “741, 741.2 or 742”;

(2) by replacing, in subparagraph *i* of paragraph *i*, “subsection 2” by “the second paragraph”.

(2) Subsection 1 has effect from 27 April 1995.

**31.** (1) Section 257 of the said Act is amended,

(1) in subparagraph *i* of paragraph *l*,

(a) by replacing “and 744.1” and “Chapter IV,” by “, 638.1, 741.2 and 744.1, as it applied to dispositions of property that occurred before 27 April 1995” and “Chapter IV and”, respectively;

(b) by striking out “and the second paragraph of section 741”;

(2) by replacing subparagraph *i.3* of paragraph *l* by the following:

“i.3. where at the particular time the property is not a tax shelter investment as defined in section 851.38 and the taxpayer would be a member described in section 261.1 of the partnership if the fiscal period of the partnership that includes that time ended at that time, the unpaid principal amount of any indebtedness of the taxpayer for which recourse is limited, either immediately or in the future and either absolutely or contingently, and that may reasonably be considered to have been used to acquire the property;”.

(2) Paragraph 1 of subsection 1 has effect from 27 April 1995.

(3) Paragraph 2 of subsection 1 applies in respect of indebtedness of a taxpayer arising after 26 September 1994, other than indebtedness arising under an agreement in writing entered into by the taxpayer before 27 September 1994.



**32.** (1) Section 259.1 of the said Act is amended by striking out, in the portion before paragraph *a*, “, 537”.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

**33.** (1) Section 259.2 of the said Act is replaced by the following :

**“259.2.** The rules provided in the second paragraph apply where

(*a*) at any time in a taxation year a person or partnership, in this section referred to as “the vendor”, disposes of a specified property to another person or partnership, in this section referred to as “the transferee”;

(*b*) immediately before that time, the vendor and the transferee did not deal with each other at arm’s length or would not have dealt with each other at arm’s length had this section applied with reference to subparagraph *k* of the first paragraph of section 485.3;

(*c*) paragraph *b* would apply in respect of the disposition if each right referred to in paragraph *b* of section 20 that is a right of the transferee to acquire the specified property from the vendor or a right of the transferee to acquire other property as part of a transaction or event or series of transactions or events that includes the disposition were not taken into account; and

(*d*) the proceeds of the disposition are not determined under any of the provisions referred to in section 259.1.

The rules to which the first paragraph refers are as follows :

(*a*) the transferee shall deduct after that time, in computing the adjusted cost base to the transferee of the property, the amount by which the aggregate of all amounts deducted under paragraph *b.1* of section 257 in computing, immediately before that time, the adjusted cost base to the vendor of the property exceeds the amount that would be the vendor’s capital gain for the year from the disposition if this Part were read without reference to subparagraph *b* of the first paragraph of section 234 and section 638; and

(*b*) the transferee shall add after that time, in computing the adjusted cost base to the transferee of the property, the amount determined under paragraph *a* in respect of the disposition.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

**34.** (1) Section 261.5 of the said Act, amended by section 70 of chapter 5 of the statutes of 2000, is again amended

(1) by replacing, in the French text of the portion before paragraph *a*, “personnes,” by “personnes”;

(2) by replacing paragraphs *b* and *c* by the following :

“(b) the member or a person not dealing at arm’s length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph *b* of section 613.3 if that paragraph were read without reference to subparagraphs ii, as it applies before being struck out, and vi thereof;

“(c) where the member who owns the interest is a corporation, partnership or trust, one of the reasons for the existence of the member can reasonably be considered to be to limit the liability of any person with respect to that interest, and cannot reasonably be considered to be to permit any person who has an interest in the corporation, partnership or trust, as the case may be, to carry on the person’s business, other than an investment business, in the most effective manner; or”;

(3) by replacing, in the French text of paragraph *d*, the words “l’un des principaux buts” by the words “l’une des principales raisons” and the words “convention ou d’une autre entente” by the words “entente ou d’un autre arrangement”.

(2) Subsection 1 applies to fiscal periods that end after 30 November 1994.

**35.** Section 272 of the said Act is amended by replacing the first paragraph by the following :

“**272.** Where the individual disposes of the individual’s principal residence to the individual’s spouse or a trust and the presumption referred to in section 440 or 454 applies,

(a) the spouse or the trust is deemed to have owned the residence since the individual acquired it; and

(b) the residence is deemed to have been the principal residence of the spouse or trust

i. in the case provided for in section 440, for all the years with respect to which the individual could have designated it, in accordance with the third paragraph of section 274, to have been the individual’s principal residence, and

ii. in the case provided for in section 454, for all the years for which the residence was the individual’s principal residence.”

**36.** (1) The said Act is amended by inserting, after section 274.3, the following section :

“**274.4.** Where a person not resident in Canada disposes of a taxable Québec property that the person last acquired before 27 April 1995 and that would not be a taxable Québec property immediately before the disposition if

sections 1087 to 1096.2 were read as they applied in respect of dispositions that occurred on 26 April 1995, the person's gain or loss from the disposition is deemed to be the amount determined by the formula

$$A \times B/C.$$

In the formula provided for in the first paragraph,

(a) A is the amount of the gain or loss determined without reference to this section ;

(b) B is the number of calendar months in the period that begins with May 1995 and ends with the calendar month that includes the time of the disposition ; and

(c) C is the number of calendar months in the period that begins with the calendar month in which the person last acquired the property and ends with the calendar month that includes the time of the disposition."

(2) Subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

**37.** (1) Section 278 of the said Act is replaced by the following :

**"278.** Notwithstanding section 234, this division applies where, at any time in a taxation year, an amount becomes receivable by a taxpayer as proceeds of disposition of a capital property, in this division referred to as "former property", that is either property the proceeds of disposition of which are described in section 280 or a property that was, immediately before the disposition, a former business property of the taxpayer, and the taxpayer acquires, where the former property is property the proceeds of disposition of which are described in that section 280, before the end of the second taxation year following the end of the year or, in any other case, before the end of the first taxation year following the end of the year, a capital property that is a replacement property for the taxpayer's former property and the replacement property has not been disposed of by the taxpayer before the time the taxpayer has disposed of the former property."

(2) Subsection 1 applies in respect of dispositions of former properties that occur after 31 December 1993. However, if the taxpayer so elects in respect of a former property of the taxpayer that was disposed of before 18 June 1998, by notifying the Minister of Revenue in writing on or before the taxpayer's filing-due date for the taxpayer's first taxation year that ends after (*insert the date of assent to this Act*), paragraph a.1 of subsection 3 of section 96 of the said Act, enacted by paragraph 2 of subsection 1 of section (*insert the number of the section in this Bill that amends section 96 of the Taxation Act*), shall, for the purpose of determining whether a capital property of the taxpayer is a replacement property of the former property, be read as follows :

“(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;”.

**38.** (1) Section 280.2 of the said Act is replaced by the following :

“**280.2.** For the purposes of this division, paragraphs *a* to *c* of subsection 3 of section 96 apply, with the necessary modifications, where it must be determined if a particular capital property of a taxpayer is a replacement property for a former property of the taxpayer.”

(2) Subsection 1 applies in respect of dispositions of former property that occur after 31 December 1993. However, if the taxpayer so elects in respect of a former property of the taxpayer that was disposed of before 18 June 1998, by notifying the Minister of Revenue in writing on or before the taxpayer’s filing-due date for the taxpayer’s first taxation year that ends after (*insert the date of assent to this Act*), paragraph *a.1* of subsection 3 of section 96 of the said Act, enacted by paragraph 2 of subsection 1 of section (*insert the number of the section in this Bill that amends section 96 of the Taxation Act*), shall, for the purpose of determining whether a property of the taxpayer is a replacement property of the former property, be read as follows :

“(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;”.

**39.** (1) Section 301 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

“**301.** Where a share of the capital stock of a corporation is acquired by a taxpayer from the corporation in exchange for a capital property of the taxpayer that is another share of the corporation or a capital property of the taxpayer that is a bond, debenture or note of the corporation the terms of which confer on the holder the right to make the exchange and no consideration other than that share is received by the taxpayer, the following rules apply :”.

(2) Subsection 1 applies in respect of exchanges that occur after 20 June 1996, other than exchanges that occur before 1 January 1997 under agreements in writing made before 21 June 1996.

**40.** Section 307.24 of the said Act is repealed.

**41.** Section 314 of the said Act is amended, in the French text, by replacing the word “transport” by the word “transfert”.

**42.** (1) Section 363 of the said Act, amended by section (*insert the number of the section in Bill 97 that amends section 363 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year*

*of assent to Bill 97*), is again amended by replacing subparagraphs *h* and *i* of the first paragraph by the following :

“(h) the generation of energy using property described in Class 43.1 in Schedule B to the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1); and

“(i) the development of projects for which it is reasonable to expect that at least 50% of the capital cost of the depreciable property to be used in each project is the capital cost of property described in Class 43.1 in Schedule B to the Regulation respecting the Taxation Act.”

(2) Subsection 1 has effect from 6 December 1996.

**43.** (1) Section 423 of the said Act is repealed.

(2) Subsection 1 applies to taxation years that begin after 31 December 1997.

**44.** Section 437 of the said Act is amended by replacing, in the French text of the portion before paragraph *a*, the words “le transport” by the words “l’attribution”.

**45.** (1) Section 451 of the said Act is amended, in the first paragraph,

(1) by replacing the portion of subparagraph *i* of subparagraph *a* before subparagraph 1 by the following :

“i. property that has been used, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis, by one of the following persons or partnerships :”;

(2) by inserting, after subparagraph 1 of subparagraph *i* of subparagraph *a*, the following subparagraph :

“(1.1) a corporation controlled by a corporation referred to in subparagraph 1 ;”;

(3) by replacing the portion of subparagraph *i* of subparagraph *f* before subparagraph 1 by the following :

“i. property that has been used, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis, by the partnership or by one of the following persons :”.

(2) Paragraph 2 of subsection 1 applies from the taxation year 1994.

**46.** Section 467 of the said Act is amended by replacing, in the French text of paragraph *b*, the word “transporté” by the word “transféré”.

**47.** (1) Section 485 of the said Act, amended by section 104 of chapter 5 of the statutes of 2000, is again amended, in paragraph *b* of the definition of “excluded security”, by replacing the words “a prescribed stock exchange in Canada” by the words “a Canadian stock exchange”.

(2) Subsection 1 has effect from 26 November 1999. In addition, where paragraph *b* of the definition of “excluded security” in section 485 of the said Act, amended by subsection 1, applies before 26 November 1999, it shall be read with the words “a prescribed stock exchange in Canada” replaced by “a Canadian stock exchange which is a stock exchange mentioned in paragraph *a* of section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1)”.

**48.** (1) Section 491 of the said Act is amended by replacing paragraph *e* by the following :

“(e) compensation received under the regulations made under section 9 of the Aeronautics Act (Revised Statutes of Canada, 1985, chapter A-2), an amount received under the Gallantry Awards Order made by the Government of Canada or a pension payment, an allowance or compensation that is received under the Pension Act (Revised Statutes of Canada, 1985, chapter P-6), the Civilian War-related Benefits Act (Revised Statutes of Canada, 1985, chapter C-31) or the War Veterans Allowance Act (Revised Statutes of Canada, 1985, chapter W-3); or”.

(2) Subsection 1 has effect from 1 May 1999.

**49.** (1) Section 497 of the said Act is replaced by the following :

“**497.** A taxpayer shall include, in computing the taxpayer’s income for a taxation year, the aggregate of

(a) the aggregate of all amounts each of which is a taxable dividend received by the taxpayer at any time in the year on a share acquired before that time and after 30 April 1989 from a corporation resident in Canada as part of a dividend rental arrangement of the taxpayer or a taxable dividend received by the taxpayer in the year from a corporation resident in Canada that is not a taxable Canadian corporation ;

(a.1) where the taxpayer is a trust, the aggregate of all amounts each of which is all or part of a taxable dividend, other than a dividend referred to in subparagraph *a*, that was received by the trust in the year on a share of the capital stock of a taxable Canadian corporation and that can reasonably be considered as having been included in computing the income of a beneficiary under the trust who was not resident in Canada at the end of the year ; and

(b) the amount by which the aggregate of all amounts received by the taxpayer in the year from corporations resident in Canada as full or partial payment of taxable dividends, other than an amount included in computing the taxpayer's income by reason of subparagraph *a* or *a.1*, exceeds, where the taxpayer is an individual, the aggregate of the amounts paid by the taxpayer in the year after 31 May 1989 that are deemed, under section 21.32, to have been received by another person as taxable dividends.

The taxpayer shall also include in computing the taxpayer's income for a taxation year, if the taxpayer is an individual, other than a trust that is a registered charity, 1/4 of the excess amount determined in respect of the taxpayer under subparagraph *b* of the first paragraph for the year."

(2) Subsection 1 applies to taxation years that end after 26 April 1995.

**50.** (1) Section 517.4.3 of the said Act is replaced by the following :

**"517.4.3.** For the purposes of sections 517.4.1 and 517.4.2,

(a) where at any time a corporation issues a share of its capital stock to a taxpayer, the taxpayer and the issuing corporation are deemed not to be dealing with each other at arm's length at that time ;

(b) where a taxpayer is deemed, because of subparagraph *a* of the first paragraph of section 726.9.2, to have reacquired a share, the taxpayer is deemed to have acquired the share at the beginning of 23 February 1994 from a person with whom the taxpayer was not dealing at arm's length ; and

(c) where a share owned by a particular person, or a share substituted for that share, has by one or more transactions or events between persons not dealing at arm's length become vested in another person, the particular person and the other person are deemed at all times not to be dealing at arm's length with each other whether or not the particular person and the other person coexisted."

(2) The portion of section 517.4.3 of the said Act before paragraph *c*, enacted by subsection 1, applies from the taxation year 1994.

(3) Paragraph *c* of section 517.4.3 of the said Act, enacted by subsection 1, applies in respect of the determination of the adjusted cost base of a share after 20 June 1996.

**51.** (1) Section 545 of the said Act, amended by section (*insert the number of the section in Bill 97 that amends section 545 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended, in subsection 5,

(1) by replacing the portion before paragraph *a* by the following :

“(5) For the purposes of sections 741 to 744.2.2,”;

(2) by replacing paragraph *b* by the following :

“(b) any dividend, other than a taxable dividend, received on a share by the predecessor corporation is deemed to have been received on the share by the new corporation ; and” ;

(3) by inserting the following paragraph :

“(c) a share acquired by the new corporation from a predecessor corporation is deemed to have been owned by the new corporation throughout any period of time throughout which it was owned by a predecessor corporation.”

(2) Paragraphs 1 and 2 of subsection 1 apply in respect of dispositions that occur after 26 April 1995.

(3) Paragraph 3 of subsection 1 applies to taxation years that begin after 31 December 1993.

**52.** (1) Section 550.6 of the said Act is amended by replacing the words “on a prescribed stock exchange” by the words “on a Canadian stock exchange”.

(2) Subsection 1 has effect from 26 November 1999.

**53.** (1) Section 555.2.2 of the said Act is replaced by the following :

**“555.2.2.** For the purposes of section 550.6, a right listed on a Canadian stock exchange to acquire a share of a class of the capital stock of the particular corporation is deemed to be a right listed on a Canadian stock exchange to acquire a share of a class of the capital stock of the new corporation.”

(2) Subsection 1 has effect from 26 November 1999.

**54.** (1) Section 557 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following :

“(a) in the case of a Canadian resource property, a foreign resource property or a right to receive production, as defined in section 158.1, to which a matchable expenditure, as defined in section 158.1, relates, the proceeds are deemed to be equal to zero ; and”.

(2) Subsection 1 has effect from 18 November 1996.

**55.** (1) Section 564.1 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following :



**“564.1.** For the purposes of sections 741 to 744.2.2, where the parent acquires pursuant to a winding-up described in section 556 a share owned by the subsidiary,”;

(2) by replacing paragraph *b* by the following :

“(b) any dividend, other than a taxable dividend, received on a share by the subsidiary is deemed to have been received on the share by the parent ; and”;

(3) by inserting the following paragraph :

“(c) a share acquired by the parent from the subsidiary is deemed to have been owned by the parent throughout any period of time throughout which it was owned by the subsidiary.”

(2) Paragraphs 1 and 2 of subsection 1 apply in respect of dispositions that occur after 26 April 1995.

(3) Paragraph 3 of subsection 1 applies to taxation years that begin after 31 December 1993.

**56.** (1) Section 597.3 of the said Act is amended, in the first paragraph,

(1) by replacing subparagraph *a* by the following :

“(a) the cost amount to the taxpayer of the property at that time determined without reference to paragraphs *c.5* and *h.1* of section 255, paragraphs *b* and *b.1* and subparagraph *i.3* of paragraph *l* of section 257 and Title VIII of Book VI;”;

(2) by replacing subparagraph *d* by the following :

“(d) where the taxpayer has held or has had the interest in the property at all times since the end of the calendar year 1984, the amount by which the fair market value of the property at the end of the calendar year 1984 exceeds the cost amount to the taxpayer of the property at the end of the calendar year 1984, or, in any other case, the aggregate of

i. the amount by which the fair market value of the property at the time the taxpayer acquired the property exceeds the cost amount to the taxpayer of the property at that time, and

ii. the amount by which the aggregate of all amounts each of which is an amount that would have been included in respect of the property because of section 597.6 in computing the taxpayer’s income for a taxation year that began before 20 June 1996 if the cost to the taxpayer of the property had been equal to the fair market value of the property at the time the taxpayer acquired it exceeds the aggregate of all amounts each of which is an amount that was included in respect of the property because of section 597.6 in computing the taxpayer’s income for a taxation year that began before 20 June 1996.”

(2) Paragraph 1 of subsection 1 has effect from 27 September 1994. However, where subparagraph *a* of the first paragraph of section 597.3 of the said Act, enacted by paragraph 1 of subsection 1, applies to a taxation year that ended before 27 April 1995, it shall be read as follows:

“(a) the cost amount to the taxpayer of the property at that time determined without reference to paragraph *h.1* of section 255, subparagraph *i.3* of paragraph *l* of section 257 and Title VIII of Book VI;”.

(3) Paragraph 2 of subsection 1 applies to taxation years that begin after 20 June 1996.

**57.** (1) Section 603 of the said Act is amended, in the portion before paragraph *a*, by inserting, after “110.1,”, “119.15,”.

(2) Subsection 1 applies to fiscal periods that end after 2 December 1992.

**58.** (1) Section 613.2 of the said Act is amended by replacing the portion before paragraph *a* by the following:

“**613.2.** For the purposes of sections 600, 603 to 605.2, 608 to 613.10 and 727 to 737, the at-risk amount of a taxpayer, in respect of a partnership of which the taxpayer is a limited partner, at any particular time is the amount by which the aggregate of the following amounts exceeds the amount determined under section 613.3:”.

(2) Subsection 1 has effect from 22 December 1992.

**59.** (1) Section 613.3 of the said Act is amended

(1) by replacing paragraph *a* by the following:

“(a) the aggregate of all amounts each of which is an amount owing at the particular time to the partnership, or to a person or partnership not dealing at arm’s length with the partnership, by the taxpayer or by a person or partnership not dealing at arm’s length with the taxpayer, other than any amount deducted under subparagraph *i.3* of paragraph *l* of section 257 in computing the adjusted cost base, or under Title VIII of Book VI in computing the cost, to the taxpayer of the taxpayer’s partnership interest at that time; and”;

(2) by replacing the portion of paragraph *b* before subparagraph *i* by the following:

“(b) any amount or benefit that the taxpayer or a person not dealing at arm’s length with the taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness, or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in

whole or in part, of any loss that the taxpayer may sustain because the taxpayer is a member of the partnership or holds or disposes of an interest in the partnership, except to the extent that the amount or benefit is referred to in paragraph *e* of section 399, paragraph *h* of section 412 or paragraph *e* of section 418.6 in respect of the taxpayer, or the entitlement arises”;

(3) by striking out, in the French text of subparagraph *i* of paragraph *b*, the word “pas”;

(4) by striking out subparagraphs *iv* and *v* of paragraph *b*.

(2) Paragraphs 1 and 2 of subsection 1 have effect from 1 December 1994.

(3) Paragraph 4 of subsection 1 applies in respect of partnership interests acquired by a taxpayer after 26 April 1995. However, it does not apply where

(1) the interest in the partnership was acquired by the taxpayer pursuant to an agreement in writing made by the taxpayer before 27 April 1995, or

(a) before 1 January 1996 where

i. all or substantially all of the property of the partnership is a prescribed film production within the meaning of section 613.3R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), as it read before its repeal, or an interest in one or more partnerships if all or substantially all of the property of each of the partnerships is such a production,

ii. the principal photography of the production, or, in the case of a production that is a television series, one episode of the series, began before 1 January 1996, and

iii. the principal photography of the production was completed before 1 March 1996,

(b) before 1 January 1996 where it may reasonably be considered that the funds raised by the partnership through the issue of the interest were used by the partnership to acquire before 1 January 1996 property included in Class 24, 27 or 34 in Schedule B to the Regulation respecting the Taxation Act and the property was

i. acquired pursuant to an agreement in writing made by the partnership before 27 April 1995, or

ii. under construction by or on behalf of the partnership on 26 April 1995,

(c) before 1 July 1995 pursuant to the terms of a document that is a final prospectus, preliminary prospectus or registration statement filed before 27 April 1995 with a public authority in Canada and in accordance with the securities legislation of Canada or of any province and, where required by

law, accepted for filing by the public authority, and the funds so raised were expended before 1 January 1996 on expenditures contemplated by the document, or

(d) before 1 July 1995 pursuant to the terms of an offering memorandum distributed as part of an offering of securities where

i. the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

ii. the memorandum was distributed before 27 April 1995,

iii. solicitations in respect of the sale of the securities contemplated by the memorandum were made before 27 April 1995,

iv. the sale of the securities was substantially in accordance with the memorandum, and

v. the funds were expended before 1 January 1996 in accordance with the memorandum; and

(2) the following conditions are met:

(a) in the case of an interest acquired by the taxpayer pursuant to an agreement in writing made by the taxpayer before 27 April 1995 or to which subparagraphs *c* and *d* of paragraph 1 apply that is a tax shelter for which Book X.1 of Part I of the said Act requires an identification number to be obtained, an identification number was obtained before 27 April 1995, and

(b) there is no agreement or other arrangement under which the taxpayer's obligations in respect of the interest can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act.

**60.** (1) Section 613.4 of the said Act is replaced by the following:

**“613.4.** For the purposes of sections 613.2 and 613.3,

(a) the amount or benefit to which the taxpayer referred to in section 613.2, or a person not dealing at arm's length with the taxpayer, is at any time entitled and that is provided by way of an agreement or other arrangement under which the taxpayer or the person has a right, either immediately or in the future and either absolutely or contingently, otherwise than as a consequence of the death of the taxpayer, to acquire other property in exchange for all or any part of the taxpayer's interest in the partnership referred to in that section shall not be considered to be less than the fair market value of the other property at that time; and

(b) the amount or benefit to which the taxpayer or the person is at any time entitled and that is provided by way of a guarantee, security or similar covenant in respect of any loan or other obligation of the taxpayer or the person shall not be considered to be less than the aggregate of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.”

(2) Subsection 1 applies in respect of partnership interests acquired by a taxpayer after 26 April 1995. However, it does not apply where

(1) the interest in the partnership was acquired by the taxpayer

(a) pursuant to an agreement in writing made by the taxpayer before 27 April 1995,

(b) before 1 July 1995 pursuant to the terms of a document that is a final prospectus, preliminary prospectus or registration statement filed before 27 April 1995 with a public authority in Canada and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1 January 1996 on expenditures contemplated by the document, or

(c) before 1 July 1995 pursuant to the terms of an offering memorandum distributed as part of an offering of securities where

i. the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

ii. the memorandum was distributed before 27 April 1995,

iii. solicitations in respect of the sale of the securities contemplated by the memorandum were made before 27 April 1995,

iv. the sale of the securities was substantially in accordance with the memorandum, and

v. the funds were expended before 1 January 1996 in accordance with the memorandum; and

(2) the following conditions are met:

(a) in the case of an interest that is a tax shelter for which Book X.1 of Part I of the said Act required an identification number to be obtained, an identification number was obtained before 27 April 1995, and

(b) there is no agreement or other arrangement under which the taxpayer’s obligations in respect of the interest can be changed, reduced or waived if

there is an amendment to the said Act or if there is an adverse assessment under the said Act.

**61.** (1) Section 613.6 of the said Act is replaced by the following :

“**613.6.** For the purposes of sections 600, 603 to 605.2, 608 to 613.10 and 727 to 737, a taxpayer who is a member of a partnership at a particular time is a limited partner of the partnership at that time if the member’s partnership interest is not an exempt interest, within the meaning assigned by section 613.7, at that time and if, at that time or within three years after that time,

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

(b) the member or a person not dealing at arm’s length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph *b* of section 613.3 if that paragraph were read without reference to subparagraphs ii, as it applies before being struck out, and vi thereof ;

(c) where the member who owns the interest is a corporation, partnership or trust, one of the reasons for the existence of the member can reasonably be considered to be to limit the liability of any person with respect to that interest, and cannot reasonably be considered to be to permit any person who has an interest in the corporation, partnership or trust, as the case may be, to carry on that person’s business, other than an investment business, in the most effective manner ; or

(d) one of the main reasons for the existence of an agreement or other arrangement for the disposition of an interest in the partnership can reasonably be considered to be to attempt to avoid the application of this section to the member.”

(2) Subsection 1 applies to fiscal periods that end after 30 November 1994, except where it replaces, in the portion of section 613.6 of the said Act before paragraph *a*, “605” by “605.2”, in which case it has effect from 22 December 1992.

**62.** (1) Section 638.1 of the said Act is replaced by the following :

“**638.1.** Notwithstanding the second paragraph of section 231, the capital loss of a taxpayer from the disposition at any time of an interest in a partnership is deemed to be equal to the amount of the loss otherwise determined minus the aggregate of all amounts each of which is an amount by which the taxpayer’s share of the partnership’s loss, in respect of a share of the capital stock of a corporation that is property of a particular partnership at that time, would be reduced under section 741.2 if the fiscal period of every partnership that includes that time had ended immediately before that time and the

particular partnership had disposed of the share immediately before the end of that fiscal period for proceeds equal to its fair market value at that time.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995. However, section 638.1 of the said Act, enacted by subsection 1, shall be read with “section 741.2” replaced by “the second paragraph of section 741” where it applies in respect of a disposition of share that is

(1) a disposition made pursuant to an agreement in writing made before 27 April 1995 ;

(2) the disposition of a share of the capital stock of a corporation that is made to that corporation, where

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust of which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual’s spouse,

(c) it was reasonable to conclude, on 26 April 1995, that one of the main purposes of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the issuing corporation, and

(d) the disposition is made by

i. the individual or the individual’s spouse,

ii. the succession of the individual or of the individual’s spouse within the succession’s first taxation year,

iii. the particular trust, where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or subparagraph *a.1* of that first paragraph in respect of a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition accrues before the end of the trust’s third taxation year that begins after the spouse’s death, or

iv. the trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual’s spouse, or a trust described in section 440 of the said Act created by the individual’s will in respect of the individual’s spouse, before the end of the trust’s third taxation year that begins after the spouse’s death ;

(3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the succession of the individual before 1 January 1997 ;

(4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that date, that was made by the succession before 1 January 1997; or

(5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995, where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or subparagraph *a.1* of that first paragraph in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.

(3) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation that is acquired in exchange for another share in the course of a transaction to which sections 301, 301.1, 518 to 533 or 541 to 555.4 of the said Act apply is deemed to be the same share as the other share.

**63.** (1) Section 640 of the said Act is amended, in the first paragraph, by inserting, after “785.2”, “and to Title VI.5 of Book IV,”.

(2) Subsection 1 applies from the taxation year 1994.

**64.** (1) Section 649 of the said Act, amended by section 140 of chapter 5 of the statutes of 2000, is again amended, in the portion of paragraph *b* before subparagraph *i*, by replacing the words “prescribed stock exchange in Canada” by the words “Canadian stock exchange”.

(2) Subsection 1 has effect from 26 November 1999. In addition, where the portion of paragraph *b* of section 649 of the said Act before subparagraph *i*, amended by subsection 1, applies after 31 December 1993 and before 26 November 1999, it shall be read with the words “prescribed stock exchange in Canada” replaced by “Canadian stock exchange that is a stock exchange mentioned in paragraph *a* of section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1)”.

**65.** Section 656.4 of the said Act is amended

(1) by replacing, wherever they appear in the French text of the portion before paragraph *a*, the words “d’aliénation” by the words “de l’aliénation”;

(2) by replacing paragraphs *b* and *b.1* by the following:

“(b) section 688 does not apply to a distribution made by the trust during the period beginning immediately after the disposition day, and ending at the end of the first day after the disposition day that is determined in respect of the trust under section 653, to any beneficiary, other than an individual who is an exempt beneficiary under the trust immediately before the time of the distribution;



“(b.1) paragraph *b* does not apply to distributions made by the trust after 28 February 1995 where the trust filed the form before 1 March 1995;”.

**66.** (1) Section 667 of the said Act, replaced by section 145 of chapter 5 of the statutes of 2000, is amended by replacing “742 and 744.2” by “741.2, 742, 742.2 and 744.2”.

(2) Subsection 1 has effect from 27 April 1995.

**67.** Section 685 of the said Act is amended by replacing “transferring” by “distributing”.

**68.** (1) Section 686 of the said Act, replaced by section 147 of chapter 5 of the statutes of 2000, is amended

(1) by replacing subparagraph 1 of subparagraph *i* of subparagraph *a* of the third paragraph by the following :

“(1) was a taxable dividend that was designated under section 666 by the trust in respect of the taxpayer, to the extent that the amount of the dividend was deductible because of sections 738 to 745 or section 845 in computing the taxpayer’s taxable income for any taxation year, or”;

(2) by replacing subparagraph 1 of subparagraph *i* of subparagraph *a* of the fourth paragraph by the following :

“(1) was a taxable dividend that was designated under section 666 by the trust in respect of the partnership, to the extent that the amount of the dividend was deductible because of sections 738 to 745 or section 845 in computing the person’s taxable income for any taxation year, or”.

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**69.** Section 688 of the said Act, amended by section 148 of chapter 5 of the statutes of 2000, is again amended

(1) by replacing the portion before paragraph *a* by the following :

**“688.** Where a personal trust or a prescribed trust distributes, at a particular time, property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s capital interest in the trust, the following rules apply :”;

(2) by replacing the portion of paragraph *d* before subparagraph *i* by the following :

“(d) for the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where the property

distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of such property exceeds the cost at which, in accordance with sections 688, 689, 691 and 692, the taxpayer is deemed to acquire the property, the following rules apply:”;

(3) by striking out, in the French text, the word “être”, after the word “réputé”, in subparagraph i of paragraph *d* and in subparagraph 1 of subparagraph ii of paragraph *e*;

(4) by replacing, in the portion of paragraph *e* before subparagraph i, the word “transferred” by the word “distributed”;

(5) by replacing, in the French text of the portion of subparagraph ii of paragraph *e* before subparagraph 1, the words “aux fins” by the words “pour l’application”.

**70.** Section 688.0.1 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“**688.0.1.** Where at any time a property is distributed by a personal trust to a taxpayer in circumstances in which section 688 applies and section 691 does not apply and the property would, if the trust had so designated the property under section 274.0.1, be a principal residence, within the meaning of that section, of the trust for a taxation year, the following rules apply where the trust so elects in its fiscal return under this Part for the taxation year that includes that time :”.

**71.** Section 688.1 of the said Act, amended by section 149 of chapter 5 of the statutes of 2000, is again amended by replacing the portion before paragraph *a* by the following :

“**688.1.** Notwithstanding any other provision of this Part, other than Title I.2 of Book VI, where a trust distributes, at a particular time, a property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s capital interest in the trust or of a right described in section 306 and section 688 does not apply in respect of the distribution, the following rules apply :”.

**72.** Section 688.2 of the said Act, enacted by section 150 of chapter 5 of the statutes of 2000, is amended by replacing, in the portion before paragraph *a*, the words “transfers” and “the transfer” by the words “distributes” and “the distribution”, respectively.

**73.** Section 690 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following :

“(a) where the trust distributes to the taxpayer money or other property, in satisfaction of all or part of the taxpayer’s capital interest, the aggregate of

- i. the money so distributed,
  - ii. all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such other property ;”;
- (2) by replacing, in the French text of the portion of the second paragraph before subparagraph *a*, the words “Aux fins” by the words “Pour l’application”.

**74.** Section 690.1 of the said Act is amended

- (1) by replacing the portion before paragraph *a* by the following :

**“690.1.** Where a trust governed by an employee benefit plan has distributed, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s interest in the trust, the following rules apply :”;

- (2) by replacing the portion of paragraph *d* before subparagraph i by the following :

“(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by paragraph *b* to have acquired the property,”.

**75.** Section 690.2 of the said Act is amended

- (1) by replacing the portion before paragraph *a* by the following :

**“690.2.** Where an employee trust distributes, at a particular time, property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s interest in the trust, the following rules apply :”;

- (2) by replacing the portion of paragraph *d* before subparagraph i by the following :

“(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost of that property to the trust exceeds the cost at which, in accordance with paragraph *b*, the taxpayer is deemed to acquire the property, the following rules apply :”.

**76.** Section 690.3 of the said Act is amended

- (1) by replacing the portion before paragraph *a* by the following :

**“690.3.** Where a trust governed by a retirement compensation arrangement has distributed, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s interest in the trust, the following rules apply :”;

(2) by replacing the portion of paragraph *e* before subparagraph *i* by the following :

“(e) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by paragraph *c* to have acquired the property”.

**77.** Section 691 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following :

**“691.** Notwithstanding paragraphs *a* to *c* of section 688, where at a particular time property of a trust is distributed by the trust to a beneficiary in circumstances in which section 688 would, but for this section, apply, the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, the property so distributed was capital property, a Canadian resource property, a foreign resource property or land included in the inventory of the trust, the taxpayer to whom the property is distributed is a person other than the spouse referred to in subparagraph *a* of the first paragraph of section 653 in respect of the trust, and that spouse is alive on the day the property is so distributed, the following rules apply :”;

(2) by replacing paragraph *c* by the following :

“(c) the taxpayer is deemed to have disposed of all or part, as the case may be, of the taxpayer’s capital interest in the trust for proceeds of disposition equal to the cost at which, but for this section, the taxpayer would be deemed by paragraph *b* of section 688, which applies in all cases irrespective of section 689, to have acquired the property, minus the amount of any obligation that the taxpayer assumed to pay as consideration for the distribution of such property by the trust.”

**78.** Section 691.1 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following :

**“691.1.** Notwithstanding paragraphs *a* to *c* of section 688, the rules provided in paragraphs *a* to *c* of section 691 apply where a personal trust or a prescribed trust distributes a particular property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s capital interest in the trust and”;

(2) by replacing, in paragraph *c*, the word “transferred” by the word “distributed”.

**79.** Section 692 of the said Act is amended

(1) by replacing the portion before paragraph *b* by the following :

“**692.** Notwithstanding paragraphs *a* to *c* of section 688, where the property referred to in that section is distributed to a taxpayer not resident in Canada, including a partnership other than a Canadian partnership, who is a beneficiary under the trust and the property is not a Canadian resource property, excluded property or property that would be taxable Canadian property if the trust had been resident in Canada at no time in the taxation year in which the property was distributed, the following rules apply :

(*a*) the trust is deemed to have disposed of that property for proceeds equal to its fair market value at the time of that distribution;”;

(2) by replacing paragraph *c* by the following :

“(c) the taxpayer is deemed to have disposed of all or part, as the case may be, of the taxpayer’s interest in the trust, for proceeds of disposition equal to the adjusted cost base to the taxpayer of the interest or part thereof, as the case may be, immediately before that distribution.”

**80.** Section 692.2 of the said Act, amended by section 293 of chapter 5 of the statutes of 2000, is again amended by replacing, in the French text, the portion before paragraph *a* by the following :

“**692.2.** Lorsqu’une fiducie pour l’environnement transfère, à un moment quelconque, un bien qui lui appartient à l’un de ses bénéficiaires en contrepartie de la totalité ou d’une partie de la participation de celui-ci à titre de bénéficiaire de la fiducie, les règles suivantes s’appliquent :”.

**81.** Section 726.4.17.11 of the said Act, amended by section 293 of chapter 5 of the statutes of 2000, is again amended by replacing, in the English text of subparagraph ii of subparagraph *a* of the second paragraph, the words “partner in” by the words “member of”.

**82.** (1) Section 726.9.9 of the said Act is replaced, in the English text, by the following :

“**726.9.9.** Where an election made under section 726.9.2 is filed with the Minister after the time prescribed in section 726.9.7, the election is deemed for the purposes of this Title, except section 726.9.12, to have been filed within the time prescribed if it is filed within two years after the expiry of the time limit and if an estimate of the penalty under section 726.9.12 is paid by the elector when the election is filed with the Minister.”

(2) Subsection 1 applies from the taxation year 1994.

**83.** (1) Section 739 of the said Act is amended by replacing paragraph *a* by the following:

“(a) a dividend or a taxable dividend does not include a capital gains dividend within the meaning assigned by sections 1106 and 1116 or any dividend received by a taxpayer on which the taxpayer was required to pay any prescribed tax;”.

(2) Subsection 1 has effect from 27 April 1995.

**84.** (1) Section 740.3 of the said Act is amended, in paragraph *b*, by replacing the words “prescribed stock exchange” by the words “Canadian stock exchange”.

(2) Subsection 1 has effect from 26 November 1999.

**85.** (1) Section 741 of the said Act is replaced by the following:

“**741.** Subject to sections 744.4 and 744.5, a taxpayer, other than a trust, shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share that is capital property of the taxpayer, other than a share that is property of a partnership,

(a) where the taxpayer is an individual, the lesser of

i. the aggregate of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. the amount of the loss, determined without reference to this section, reduced by the aggregate of all taxable dividends received by the taxpayer on the share; and

(b) where the taxpayer is a corporation, the aggregate of all amounts received by the taxpayer on the share each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under sections 738 to 745 or section 845 in computing the taxpayer’s taxable income for any taxation year,

ii. a dividend in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, or

iii. a life insurance capital dividend.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995, other than

(1) a disposition that occurs pursuant to an agreement in writing made before 27 April 1995;

(2) a disposition of a share of the capital stock of a corporation that is made to the corporation if

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust under which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual's spouse,

(c) it was reasonable to conclude on 26 April 1995 that a main purpose of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the corporation that issued the share, and

(d) the disposition is made by

i. the individual or the individual's spouse,

ii. the succession of the individual or of the individual's spouse within the succession's first taxation year,

iii. the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death, or

iv. a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in respect of the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death;

(3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the individual's succession before 1 January 1997;

(4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that day, that was made by the succession before 1 January 1997; or

(5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.

(3) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation acquired in exchange for another share in a transaction to which any of sections 301, 301.1, 518 to 533 and 541 to 555.4 of the said Act applies is deemed to be the same share as the other share.

**86.** (1) The said Act is amended by inserting, after section 741, the following sections :

**“741.1.** A dividend shall not be included in the aggregate determined under subparagraph *i* of paragraph *a* of section 741 or paragraph *b* of that section where the taxpayer referred to in that section establishes that

(*a*) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(*b*) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition of the share by the taxpayer.

**“741.2.** Subject to sections 744.4 and 744.5, a taxpayer, other than a partnership or a mutual fund trust, who is a member of a partnership shall subtract from the taxpayer's share of any loss of the partnership, determined without reference to this section, resulting from the disposition of a share held by a particular partnership as capital property,

(*a*) where the taxpayer is an individual, the lesser of

i. the aggregate of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. that share of the loss, determined without reference to this section, reduced by the aggregate of all taxable dividends received by the taxpayer on the share;

(*b*) where the taxpayer is a corporation, the aggregate of all amounts received by the taxpayer on the share each of which is



i. a taxable dividend, to the extent of the amount of the dividend that was deductible under sections 738 to 745 or section 845 in computing the taxpayer's taxable income for any taxation year,

ii. a dividend in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, or

iii. a life insurance capital dividend; and

(c) where the taxpayer is a trust, the aggregate of all amounts each of which is a taxable dividend or a life insurance capital dividend received on the share and designated under section 666 or 667 by the trust in respect of a beneficiary that was a corporation, partnership or trust.

**“741.3.** A dividend shall not be included in the aggregate determined under subparagraph i of paragraph *a* of section 741.2 or paragraph *b* or *c* of that section where the taxpayer referred to in that section establishes that

(a) it was received when the particular partnership referred to in section 741.2, the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not hold in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the particular partnership referred to in section 741.2 held throughout the 365-day period that ended immediately before the disposition of the share by the particular partnership.

**“741.4.** A taxable dividend received on a share and designated under section 666 by a particular trust in respect of a beneficiary that was a partnership or trust shall not be included in the aggregate determined under paragraph *c* of section 741.2 where the particular trust establishes that the dividend was received by an individual, other than a trust.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995, other than

(1) a disposition that occurs pursuant to an agreement in writing made before 27 April 1995;

(2) a disposition of a share of the capital stock of a corporation that is made to the corporation if

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust under which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual's spouse,

(c) it was reasonable to conclude on 26 April 1995 that a main purpose of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the corporation that issued the share, and

(d) the disposition is made by

- i. the individual or the individual's spouse,
- ii. the succession of the individual or of the individual's spouse within the succession's first taxation year,
- iii. the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death, or
- iv. a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in respect of the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death;

(3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the individual's succession before 1 January 1997;

(4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that date, that was made by the succession before 1 January 1997; or

(5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.

(3) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation acquired in exchange for another share in a transaction to which any of sections 301, 301.1, 518 to 533 and 541 to 555.4 of the said Act applies is deemed to be the same share as the other share.

**87.** (1) Section 742 of the said Act is replaced by the following:

**“742.** Subject to sections 744.4 and 744.5, a trust, other than a mutual fund trust, shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share of the capital stock of a corporation that is capital property of the trust, the aggregate of

(a) the amount by which the lesser of the following amounts exceeds the amount determined under the second paragraph :

i. the aggregate of all amounts each of which is a dividend received by the trust on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. the amount of the loss, determined without reference to this section, reduced by the aggregate determined in the third paragraph ; and

(b) the aggregate of the following amounts each of which is received on the share and designated under section 666 or 667 by the trust in respect of a beneficiary that was a corporation, partnership or trust :

i. a taxable dividend, and

ii. a life insurance capital dividend.

Where the trust referred to in the first paragraph is an individual’s succession, the share was acquired as a consequence of the individual’s death and the disposition of the share occurs during the trust’s first taxation year, the amount to which subparagraph *a* of the first paragraph refers is 1/4 of the lesser of

(a) the amount of the loss, determined without reference to this section, resulting from the disposition of the share ; and

(b) the individual’s capital gain from the disposition of the share immediately before the individual’s death.

The aggregate to which subparagraph ii of subparagraph *a* of the first paragraph refers in respect of the trust referred to in that paragraph corresponds to the aggregate of all amounts each of which is the amount of a taxable dividend

(a) received by the trust on the share referred to in the first paragraph ;

(b) received on the share referred to in the first paragraph and designated under section 666 by the trust in respect of a beneficiary who is an individual, other than a trust ; or

(c) received on the share referred to in the first paragraph and designated under section 666 by the trust in respect of a beneficiary that was a corporation, partnership or another trust where the trust establishes that

i. it owned the share throughout the 365-day period that ended immediately before the disposition of the share by the trust, and

ii. the dividend was received while the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received."

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995, other than

(1) a disposition that occurs pursuant to an agreement in writing made before 27 April 1995 ;

(2) a disposition of a share of the capital stock of a corporation that is made to the corporation if

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust under which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual's spouse,

(c) it was reasonable to conclude on 26 April 1995 that a main purpose of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the corporation that issued the share, and

(d) the disposition is made by

i. the individual or the individual's spouse,

ii. the succession of the individual or of the individual's spouse within the succession's first taxation year,

iii. the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death, or

iv. a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in respect of the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death ;

(3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the individual's succession before 1 January 1997;

(4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that day, that was made by the succession before 1 January 1997; or

(5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.

(3) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation acquired in exchange for another share in a transaction to which any of sections 301, 301.1, 518 to 533 and 541 to 555.4 of the said Act applies is deemed to be the same share as the other share.

**88.** (1) The said Act is amended by inserting, after section 742, the following sections :

**“742.1.** Notwithstanding section 742, where a trust has at any time acquired a share of the capital stock of a corporation because of section 653, the trust shall subtract from the amount of any loss, determined without reference to section 742 or this section, resulting from a disposition after that time, the aggregate of

(a) the amount by which the lesser of the following amounts exceeds the amount determined under the second paragraph :

i. the aggregate of all amounts each of which is a dividend received after that time by the trust on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend,

ii. the amount of the loss determined without reference to section 742 or this section, reduced by the aggregate determined in the third paragraph; and

(b) the aggregate of all amounts each of which is a taxable dividend received on the share after that time and designated under section 666 by the trust in respect of a beneficiary that was a corporation, partnership or trust.

The amount to which subparagraph *a* of the first paragraph refers in respect of a trust referred to in that paragraph is 1/4 of the lesser of

(a) the amount of the loss, determined without reference to section 742 or this section, resulting from the disposition of the share referred to in the first paragraph;

(b) the trust's capital gain from the disposition immediately before the time referred to in the first paragraph of the share referred to in that paragraph because of section 653.

The aggregate to which subparagraph ii of subparagraph *a* of the first paragraph refers in respect of the trust referred to in the said paragraph corresponds to the aggregate of all amounts each of which is the amount of a taxable dividend

(a) received by the trust on the share referred to in the first paragraph after the time of acquisition;

(b) received on the share referred to in the first paragraph after the time of acquisition and designated under section 666 by the trust in respect of a beneficiary who is an individual, other than a trust; or

(c) received on the share referred to in the first paragraph after the time of acquisition and designated under section 666 by the trust in respect of a beneficiary that was a corporation, partnership or another trust, where the trust establishes that

i. it owned the share throughout the 365-day period that ended immediately before the disposition of the share, and

ii. the dividend was received when the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received.

**“742.2.** No dividend received by a trust shall be included under subparagraph i of subparagraph *a* or subparagraph ii of subparagraph *b* of the first paragraph of section 742 or subparagraph i of subparagraph *a* of the first paragraph of section 742.1 where the trust establishes that the dividend

(a) was received

i. in any case where the dividend was designated under section 666 or 667 by the trust, when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

ii. in any other case, when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

**“742.3.** No taxable dividend received on a share and designated under section 666 by a trust in respect of a beneficiary that was a corporation, partnership or trust shall be included under subparagraph *b* of the first paragraph of section 742 or 742.1 where the trust establishes that the dividend was received by an individual, other than a trust, or

(a) was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm’s length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received ; and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995, other than

(1) a disposition that occurs pursuant to an agreement in writing made before 27 April 1995 ;

(2) a disposition of a share of the capital stock of a corporation that is made to the corporation if

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust under which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual’s spouse,

(c) it was reasonable to conclude on 26 April 1995 that a main purpose of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the corporation that issued the share, and

(d) the disposition is made by

i. the individual or the individual’s spouse,

ii. the succession of the individual or of the individual’s spouse within the succession’s first taxation year,

iii. the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a

spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death, or

iv. a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in respect of the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death;

(3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the individual's succession before 1 January 1997;

(4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that date, that was made by the succession before 1 January 1997; or

(5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.

(3) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation acquired in exchange for another share in a transaction to which any of sections 301, 301.1, 518 to 533 and 541 to 555.4 of the said Act applies is deemed to be the same share as the other share.

**89.** (1) Section 743 of the said Act is replaced by the following:

**“743.** Subject to sections 744.4 and 744.5, a taxpayer, other than a trust, shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share of the capital stock of a corporation that is property, other than capital property, of the taxpayer,

(a) where the taxpayer is an individual and the corporation is resident in Canada, the aggregate of all dividends received by the individual on the share;

(b) where the taxpayer is a partnership, the aggregate of all dividends received by the partnership on the share; and

(c) where the taxpayer is a corporation, the aggregate of all amounts received by the corporation on the share each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under this Title or section 845 in computing the corporation's taxable income for any taxation year, or



ii. a dividend, other than a taxable dividend.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**90.** (1) The said Act is amended by inserting, after section 743, the following section :

**“743.1.** A dividend shall not be included in the aggregate determined under any of paragraphs *a* to *c* of section 743 where the taxpayer referred to in that section establishes that

(*a*) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm’s length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(*b*) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition of the share by the taxpayer.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**91.** (1) Section 744 of the said Act is replaced by the following :

**“744.** For the purposes of sections 83 to 85.6, a shareholder who holds a share of the capital stock of a corporation shall, in computing the fair market value of the share at any time, add to that value

(*a*) where the shareholder is a corporation, the aggregate of all amounts received by the shareholder on the share before that time each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under this Title or section 845 in computing the shareholder’s taxable income for any taxation year, or

ii. a dividend, other than a taxable dividend;

(*b*) where the shareholder is a partnership, the aggregate of all amounts each of which is a dividend received by the shareholder on the share before that time; and

(*c*) where the shareholder is an individual and the corporation is resident in Canada, the aggregate of all amounts each of which is a dividend received by the shareholder on the share before that time, or, where the shareholder is a trust, the aggregate of all amounts each of which is a dividend that would have been so received if this Part were read without reference to section 666.”

(2) Subsection 1 applies to taxation years that end after 26 April 1995.

**92.** (1) The said Act is amended by inserting, after section 744, the following section:

**“744.0.1.** A dividend shall not be included in the aggregate determined under any of paragraphs *a* to *c* of section 744 where the shareholder referred to in that section establishes that

(*a*) it was received when the shareholder and persons with whom the shareholder was not dealing at arm’s length did not hold in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(*b*) it was received on a share that the shareholder held throughout the 365-day period that ended at the time referred to in section 744.”

(2) Subsection 1 applies to taxation years that end after 26 April 1995.

**93.** (1) Section 744.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**94.** (1) Section 744.2 of the said Act is replaced by the following:

**“744.2.** Subject to sections 744.4 and 744.5, a trust shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share that is property, other than capital property, of the trust, the aggregate of

(*a*) the aggregate of all amounts each of which is a dividend received by the trust on the share, to the extent that the amount was not designated under section 667 in respect of a beneficiary of the trust; and

(*b*) the aggregate of all amounts each of which is a dividend received on the share that was designated under section 666 or 667 by the trust in respect of a beneficiary of the trust.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**95.** (1) The said Act is amended by inserting, after section 744.2, the following sections:

**“744.2.1.** A dividend shall not be included in the aggregate determined under paragraph *a* of section 744.2 where the trust referred to in that section establishes that

(a) it was received when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition of the share by the trust.

**“744.2.2.** A dividend shall not be included in the aggregate determined under paragraph *b* of section 744.2 where the trust referred to in that section establishes that

(a) it was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition of the share by the trust.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**96.** (1) Section 744.3 of the said Act is repealed.

(2) In the case provided in section 741 or 742 of the said Act, as replaced by sections *(insert the number of the section in this Bill that replaces section 741 of the Taxation Act)* and *(insert the number of the section in this Bill that replaces section 742 of the Taxation Act)*, subsection 1 applies in respect of dispositions that occur after 26 April 1995, other than

(1) a disposition that occurs pursuant to an agreement in writing made before 27 April 1995;

(2) a disposition of a share of the capital stock of a corporation that is made to the corporation if

(a) on 26 April 1995, the share was owned by an individual, other than a trust, or by a particular trust under which an individual, other than a trust, was a beneficiary,

(b) on 26 April 1995, a corporation, or a partnership of which a corporation is a member, was a beneficiary of a life insurance policy that insured the life of the individual or the individual's spouse,

(c) it was reasonable to conclude on 26 April 1995 that a main purpose of the life insurance policy was to fund, directly or indirectly, in whole or in part, a redemption, acquisition or cancellation of the share by the corporation that issued the share, and

- (d) the disposition is made by
  - i. the individual or the individual's spouse,
  - ii. the succession of the individual or of the individual's spouse within the succession's first taxation year,
  - iii. the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death, or
  - iv. a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in respect of the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in respect of the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death;
- (3) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 that was made by the individual's succession before 1 January 1997;
- (4) a disposition of a share of the capital stock of a corporation owned by a succession on 26 April 1995, the first taxation year of which ended after that date, that was made by the succession before 1 January 1997; or
- (5) a disposition of a share of the capital stock of a corporation owned by an individual on 26 April 1995 where the individual is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a.1* of the first paragraph of that section 653 in respect of a spouse, that was made by the trust after the spouse's death and before 1 January 1997.
- (3) In the case provided in section 743 or 744.2 of the said Act, as replaced by sections *(insert the number of the section in this Bill that replaces section 743 of the Taxation Act)* and *(insert the number of the section in this Bill that replaces section 744.2 of the Taxation Act)*, subsection 1 applies in respect of dispositions that occur after 26 April 1995.
- (4) In the case provided in section 744 of the said Act, as replaced by section *(insert the number of the section in this Bill that replaces section 744 of the Taxation Act)*, subsection 1 applies to taxation years that end after 26 April 1995.
- (5) For the purposes of paragraph 2 of subsection 2 and this subsection, a share of the capital stock of a corporation acquired in exchange for another share in a transaction to which any of sections 301, 301.1, 518 to 533 and 541

to 555.4 of the said Act applies is deemed to be the same share as the other share.

**97.** (1) Section 744.4 of the said Act is replaced by the following :

**“744.4.** The rules set out in sections 741 to 743 and 744.2 do not apply in respect of the disposition of a share by a taxpayer in a taxation year that begins after 31 October 1994 where the share is a mark-to-market property for the year and the taxpayer is a financial institution in the year or where section 744.6 applies in respect of the disposition.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**98.** (1) Section 744.5 of the said Act is amended by replacing the portion before paragraph *a* by the following :

**“744.5.** In determining whether any of sections 741 to 743 and 744.2 apply to reduce a loss of a taxpayer from the disposition of a share, this Part shall be read without reference to paragraph *b* of sections 741.1, 741.3, 742.2, 742.3, 743.1, 744.2.1 and 744.2.2 and subparagraph *i* of subparagraph *c* of the third paragraph of sections 742 and 742.1 where”.

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**99.** (1) Section 744.6 of the said Act is amended

(1) by replacing subparagraph *b* of the first paragraph by the following :

“(b) the disposition is an actual disposition, the taxpayer did not hold the share throughout the 365-day period that ended immediately before the disposition, and the share was a mark-to-market property of the taxpayer for a taxation year that begins after 31 October 1994 and in which the taxpayer was a financial institution.”;

(2) by replacing subparagraph 4 of subparagraph *ii* of subparagraph *b* of the third paragraph by the following :

“(4) a dividend, other than a taxable dividend, received by the taxpayer on the share;”;

(3) by replacing subparagraph *ii* of subparagraph *c* of the third paragraph by the following :

“ii. where the taxpayer is a corporation or trust, a loss of the taxpayer on a deemed disposition of the share before the particular time was reduced because of section 741, 742, 743 or 744.2, or”.

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**100.** (1) The said Act is amended by inserting, after section 744.6, the following section:

**“744.6.1.** A dividend shall not be included in the aggregate determined under subparagraph ii of subparagraph *b* of the third paragraph of section 744.6 in respect of a taxpayer referred to in that section unless

(a) the dividend was received when the taxpayer and persons with whom the taxpayer was not dealing at arm’s length held in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

(b) the share was not held by the taxpayer throughout the 365-day period that ended before the disposition of the share by the taxpayer.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**101.** (1) Section 745 of the said Act is replaced by the following:

**“745.** Subject to the second and third paragraphs, where a share, in this section referred to as the “new share”, has been acquired in exchange for another share, in this section referred to as the “old share”, in a transaction to which any of sections 301, 301.1 and 536 to 555.4 applies, for the purposes of any of sections 741 to 742.3 in respect of a disposition of the new share, the new share is deemed to be the same share as the old share.

For the purposes of the first paragraph, any dividend received on the old share is deemed for the purposes of sections 741 to 742.3 to have been received on the new share only to the extent of the proportion of the dividend that the shareholder’s adjusted cost base of the new share immediately after the exchange is of the shareholder’s adjusted cost base of all new shares, immediately after the exchange, acquired in exchange for the old share.

For the purposes of the first paragraph, the amount by which a loss from the disposition of the new share is reduced because of the application of this section shall not exceed the proportion of the shareholder’s adjusted cost base of the old share immediately before the exchange that the shareholder’s adjusted cost base of the new share immediately after the exchange is of the shareholder’s adjusted cost base of all new shares, immediately after the exchange, acquired in exchange for the old share.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**102.** (1) Section 752.16 of the said Act is amended by replacing “782” by “784”.

(2) Subsection 1 applies to taxation years that begin after 26 April 1995.

**103.** (1) Section 767 of the said Act, amended by section 99 of chapter 86 of the statutes of 1999 and by section (*insert the number of the section in Bill 97 that amends section 767 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended by replacing, in the first paragraph, “subsection 2” by “the second paragraph”.

(2) Subsection 1 has effect from 27 April 1995.

**104.** (1) Section 776.58 of the said Act is replaced by the following :

“**776.58.** For the purposes of section 776.51, section 497 shall be read without reference to the second paragraph thereof.”

(2) Subsection 1 has effect from 27 April 1995.

**105.** Section 776.72 of the said Act is amended, in the English text,

(1) by replacing the words “film properties” by the words “film property” in the following provisions :

— the portion of the first paragraph before subparagraph *a* ;

— subparagraphs *i* and *ii* of subparagraph *b* of the first paragraph ;

(2) by replacing, in the portion of the first paragraph before subparagraph *a*, the words “in computing income” by the words “in computing the individual’s income” ;

(3) by replacing, in subparagraph *a* of the first paragraph, the words “the aggregate of the amounts” by the words “the aggregate of all amounts” ;

(4) by replacing, in the second paragraph, the words “in computing income” by the words “in computing its income”.

**106.** (1) Section 780 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following :

“**780.** Notwithstanding section 782 and paragraphs *c* and *d* of the first paragraph of section 784, where at any time a taxpayer is discharged absolutely from bankruptcy, the following rules apply :” ;

(2) by replacing paragraph *b* by the following :

“(b) in computing the taxpayer’s tax otherwise payable for any taxation year that ends after that time, no amount shall be deducted under Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day on which the taxpayer became bankrupt, under section 752.0.18.10 for tuition fees and examination fees paid in respect of a taxation year that ended before that time, or under section 752.12 in respect of a taxation year that ended before that time.”

(2) Subsection 1 applies in respect of bankruptcies that occur after 26 April 1995. However, where paragraph *b* of section 780 of the said Act, enacted by paragraph 2 of subsection 1, applies to taxation years that end before 1 January 1997, it shall be read as follows :

“(b) in computing the taxpayer’s tax otherwise payable for any taxation year that ends after that time, no amount shall be deducted under Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day on which the taxpayer became bankrupt, or under section 752.12 in respect of a taxation year that ended before that time.”

**107.** (1) Section 782 of the said Act is amended

(1) by replacing paragraph *a* by the following :

“(a) in Book IV, except those permitted by section 725.2 or sections 725.3 to 725.5 or by Title VI.5 in respect of an amount included in computing income under this section for the year and those permitted by sections 727 to 737 in respect of a loss of the individual for any year that ended before the individual was discharged absolutely from bankruptcy;”;

(2) by replacing paragraph *b* by the following :

“(b) in Chapters I.0.1, I.0.2, I.0.3 and I.0.4 of Title I of Book V;”;

(3) by inserting, after paragraph *b*, the following paragraph :

“(b.0.1) in Chapter I.0.2.1 of Title I of Book V in respect of a gift made by the individual on or after the day the individual became bankrupt.”

(2) Subsection 1 applies in respect of bankruptcies that occur after 26 April 1995.

**108.** (1) Section 784 of the said Act is amended by replacing subparagraphs *c* and *d* of the first paragraph by the following :

“(c) in computing the individual’s taxable income for the year, the individual was not entitled to deduct an amount under section 725.2 or sections 725.3 to 725.5 or under Title VI.5 of Book IV in respect of an amount included in computing income under section 782, or an amount under sections 727 to 737; and



“(d) in computing the individual’s tax payable for the year, the individual was not entitled to deduct an amount under Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day the individual became bankrupt, to take into account in computing a deduction under section 752.0.18.10 any tuition fees or examination fees paid in respect of a year preceding the year in respect of which the return is filed, or to deduct an amount under section 752.12.”

(2) Subsection 1 applies in respect of bankruptcies that occur after 26 April 1995. However, where subparagraph *d* of the first paragraph of section 784 of the said Act, enacted by subsection 1, applies to a taxation year that ended before 1 January 1997, it shall be read as follows:

“(d) in computing the individual’s tax payable for the year, the individual was not entitled to deduct an amount under Chapter I.0.2.1 of Title I of Book V in respect of a gift made before the day the individual became bankrupt, or to deduct an amount under section 752.12.”

**109.** (1) Section 785.4 of the said Act, amended by section 293 of chapter 5 of the statutes of 2000, is again amended by replacing paragraph *b* of the definition of “qualifying exchanges” in the first paragraph by the following:

“(b) no person disposing of shares in the transferor to the transferor within that 60-day period, otherwise than pursuant to the exercise of a statutory right of dissent, receives any consideration for the shares other than units of the transferee, and;”.

(2) Subsection 1 has effect from 1 July 1994.

**110.** (1) Section 785.5 of the said Act is amended

(1) by inserting, after paragraph *m*, the following paragraph:

“(m.1) where the transferor is a mutual fund corporation, the following rules apply:

i. for the purposes of section 1118, the transferor is deemed in respect of any share disposed of in accordance with paragraph *j* to be a mutual fund corporation at the time of the disposition, and

ii. for the purposes of Part IV, the transferor’s taxation year that, but for this paragraph, would have included the transfer time is deemed to have ended immediately before the transfer time and nothing in this paragraph shall affect the computation of any amount determined under this Part;”;

(2) by replacing paragraph *n* by the following:

“(n) subject to subparagraph i of paragraph *m.1*, the transferor is, notwithstanding sections 1117 and 1120, deemed to be neither a mutual fund

corporation nor a mutual fund trust for taxation years beginning after the transfer time.”

(2) Subsection 1 has effect from 1 July 1994. However, where paragraphs *m.1* and *n* of section 785.5 of the said Act, enacted by subsection 1, apply before 30 October 1996, they shall be read with the words “société d’investissement à capital variable” and “fiducie de fonds commun de placements” replaced by the words “corporation de fonds mutuels” and “fiducie de fonds mutuels”, respectively, wherever they appear in the French text.

**111.** (1) Section 785.6 of the said Act is amended by replacing, in the fourth paragraph, “785.5” by “785.4”.

(2) Subsection 1 applies in respect of transfers that occur after 25 March 1997.

**112.** (1) Section 805 of the said Act is amended, in subparagraph *a* of the first paragraph, by inserting, after the words “Her Majesty in right of a province”, “, other than Québec,”.

(2) Subsection 1 has effect from 12 June 1998.

**113.** (1) Section 851.22.1 of the said Act is amended by replacing the definition of “specified debt obligation” in the first paragraph by the following:

““specified debt obligation” of a taxpayer means the interest held by the taxpayer in a loan, bond, debenture, note, obligation secured by mortgage, agreement of sale or any other similar indebtedness, or a debt obligation, where the taxpayer purchased the interest, other than an interest in

(a) an income bond, an income debenture, a small business bond, a development bond or a prescribed property; or

(b) an instrument issued by or made with a person to whom the taxpayer is related or with whom the taxpayer does not otherwise deal at arm’s length, or in which the taxpayer has a significant interest.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**114.** (1) Section 851.22.4 of the said Act is amended by replacing the portion before paragraph *a* by the following:

**“851.22.4.** Subject to sections 851.22.5 and 851.22.5.1, where a taxpayer that is, in a taxation year, a financial institution holds a specified debt obligation at any time in the year, the following rules apply:”.

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997 ; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**115.** (1) The said Act is amended by inserting, after section 851.22.4, the following section :

**“851.22.4.1.** Subject to section 851.22.5, where a taxpayer who holds a specified debt obligation at any time in a particular taxation year in which the taxpayer is a financial institution has not included, in computing the taxpayer’s income for a preceding taxation year, all or part of an amount required by section 92 or paragraph *a* of section 851.22.4 to be so included in respect of the obligation, that amount or that part of the amount shall be included by the taxpayer in computing the taxpayer’s income for the particular year, to the extent that it was not included in computing the taxpayer’s income for a preceding taxation year.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**116.** (1) The said Act is amended by inserting, after section 851.22.5, the following section :

**“851.22.5.1.** Section 851.22.4 does not apply to a taxpayer in respect of a specified debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer’s income for the year.”

(2) Subsection 1 applies to taxation years that end

(1) after 30 September 1997 ; or

(2) where an election under paragraph 2 of subsection 2 of section (*insert the number of the section in this Bill that replaces section 140.1 of the Taxation Act*) was made by the taxpayer, after 31 December 1995 and before 1 October 1997.

**117.** (1) Section 851.22.6 of the said Act is amended by replacing, in the second paragraph, the words “This division” by the words “This chapter”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**118.** (1) Section 851.22.7 of the said Act is amended by replacing paragraph *b* of the definition of “tax basis” by the following :

“(b) an amount included under section 92, 123 or 851.22.4.1 or paragraph *a* of section 851.22.4 in respect of the obligation in computing the taxpayer’s income for a taxation year that began before the particular time;”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**119.** (1) Section 851.22.8 of the said Act is amended by replacing paragraph *b* by the following :

“(b) the amount of a payment received by the taxpayer under the obligation at or before the particular time, other than a fee or similar payment and the proceeds of disposition of the obligation;”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**120.** (1) Section 851.22.9 of the said Act is amended by replacing subparagraph *c* of the second paragraph by the following :

“(c) C is the taxpayer’s transition amount in respect of the disposition of the obligation.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**121.** (1) Section 851.22.10 of the said Act is amended by replacing paragraph *a* by the following :

“(a) except as provided by this division and by paragraph *d* of section 484.12, no amount shall be included or deducted in respect of the disposition in computing the taxpayer’s income ; and”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**122.** (1) Section 851.22.11 of the said Act is amended by replacing paragraphs *a* to *d* by the following :

“(a) where the transition amount in respect of the disposition of the obligation is positive, it shall be included in computing the taxpayer’s income for the year ;

“(b) where the transition amount in respect of the disposition of the obligation is negative, such transition amount expressed as a positive number shall be deducted in computing the taxpayer’s income for the year ;

“(c) where the taxpayer has a gain from the disposition of the obligation, there shall be included in computing the taxpayer’s income for the year the current amount of the gain and, in computing the taxpayer’s income for each taxation year that ends on or after the day of disposition the amount allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the gain ; and

“(d) where the taxpayer has a loss from the disposition of the obligation, there shall be deducted in computing the taxpayer’s income for the year the current amount of the loss and, in computing the taxpayer’s income for each taxation year that ends on or after the day of disposition the amount allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the loss.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**123.** (1) Section 851.22.12 of the said Act is replaced by the following :

**“851.22.12.** For the purposes of section 851.22.11 and this section,

(a) the current amount of a taxpayer’s gain or loss from the disposition of a specified debt obligation is

i. where the taxpayer has a gain from the disposition of the obligation, the part of the gain that is reasonably attributable to a material increase in the probability, or perceived probability, that the debtor will make all payments as required by the obligation, and

ii. where the taxpayer has a loss from the disposition of the obligation, the negative amount that the taxpayer claims not exceeding in magnitude the part of the loss that is reasonably attributable to a default by the debtor or a material decrease in the probability, or perceived probability, that the debtor will make all payments as required by the obligation; and

(b) the residual portion of a taxpayer’s gain or loss from the disposition of a specified debt obligation is the amount by which the gain or loss exceeds the current amount of the gain or loss.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**124.** (1) Section 851.22.13 of the said Act is amended

(1) by replacing subparagraphs *b* and *c* of the first paragraph by the following :

“(b) there shall be included in computing the taxpayer’s income for the year the amount by which the taxpayer’s proceeds of disposition exceed the tax basis of the obligation to the taxpayer immediately before the disposition; and

“(c) there shall be deducted in computing the taxpayer’s income for the year the amount by which the tax basis of the obligation to the taxpayer immediately before the disposition exceeds the taxpayer’s proceeds of disposition.”;

(2) by replacing subparagraph *b* of the second paragraph by the following :

“(b) the disposition occurred before 1 January 1995, after 31 December 1994 in connection with the transfer of all or part of a business of the taxpayer to a person or partnership, because of paragraph *c* of section 851.22.23, or before 1 January 1996 where the taxpayer, other than a life insurance corporation, elects to have this section apply by notifying the Minister of Revenue in writing on or before the taxpayer’s filing-due date for the taxpayer’s taxation year that includes (*insert the date of assent to this Act*).”;

(3) by adding, after the second paragraph, the following paragraph :

“Where a taxpayer elects under subparagraph *b* of the second paragraph, the Minister shall, for the purposes of Part I and notwithstanding sections 1010 to 1011, make such assessment or reassessment of the taxpayer’s tax, interest and penalties as is necessary for any taxation year to give effect to the election.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**125.** (1) The said Act is amended by inserting, after section 851.22.13, the following sections :

“**851.22.13.1.** Notwithstanding section 175.1.1, where a taxpayer that holds a specified debt obligation receives a penalty or bonus because of the repayment before maturity of all or part of the principal amount of the debt obligation, the payment is deemed to be received by the taxpayer as proceeds of disposition of the obligation.

“**851.22.13.2.** For the purposes of this division, where a taxpayer receives a payment, other than proceeds of disposition, under a specified debt obligation on or after the disposition of the obligation, the payment is deemed not to have been so received at that time but to have been so received immediately before the disposition.”

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**126.** (1) Sections 851.22.18 to 851.22.20 of the said Act are replaced by the following :

“**851.22.18.** Where a taxpayer deducts an amount under section 851.22.17 in computing the taxpayer’s income, there shall be included in computing the taxpayer’s income for each taxation year that begins before 1 January 1999 and ends after 30 October 1994 the aggregate of all amounts prescribed for the year.

“**851.22.19.** Such amount as a taxpayer elects, not exceeding a prescribed amount in respect of capital properties disposed of by the taxpayer because of section 851.22.15, is deemed to be an allowable capital loss of the

taxpayer for its taxation year that includes 31 October 1994 from the disposition of property or, where the taxpayer was not resident in Canada at any time in the year, from the disposition of taxable Québec property.

**“851.22.20.** A taxpayer that elects an amount under section 851.22.19 is deemed, for each taxation year that begins before 1 January 1999 and ends after 30 October 1994, to have a taxable capital gain for the year from the disposition of property or, where the taxpayer was not resident in Canada at any time in the year, from the disposition of taxable Québec property equal to the aggregate of all amounts prescribed for the year.”

(2) Subsection 1 applies to taxation years that end after 30 October 1994.

**127.** (1) The said Act is amended by inserting, after section 851.22.28, the following sections :

**“851.22.29.** A taxpayer that is a financial institution in its first taxation year that ends after 22 February 1994, may elect, by notifying the Minister in writing on or before the taxpayer’s filing-due date for the taxpayer’s taxation year that includes (*insert the date of assent to this Act*) or, where that period has expired, within 90 days after the day on which a notice of assessment of tax payable under this Part for the year, notification that no tax is payable under this Part for the year or notification that an election made by the taxpayer under this section is deemed by section 851.22.30 or 851.22.31 not to have been made is mailed to the taxpayer, that

(a) each property of the taxpayer that is a property described in the second paragraph is deemed to have been disposed of by the taxpayer at the end of the taxpayer’s last taxation year that ended before 23 February 1994, in this section referred to as the “particular time”, for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after the particular time at a cost equal to, the lesser of

- i. the fair market value of the property at the particular time, and
- ii. the greater of the adjusted cost base to the taxpayer of the property immediately before the particular time and the amount designated by the taxpayer in the election in respect of the property ;

(b) each property of the taxpayer that is a property described in the third paragraph is deemed to have been disposed of by the taxpayer at the particular time for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after the particular time at a cost equal to, the greater of

- i. the fair market value of the property at the particular time, and
- ii. the lesser of the adjusted cost base to the taxpayer of the property immediately before the particular time and the amount designated by the taxpayer in the election in respect of the property.

A property to which subparagraph *a* of the first paragraph refers

(*a*) was a capital property, other than a depreciable property, of the taxpayer at the particular time ;

(*b*) was a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after the particular time ;

(*c*) had a fair market value at the particular time greater than its adjusted cost base to the taxpayer at that time ; and

(*d*) is designated by the taxpayer in the election.

A property to which subparagraph *b* of the first paragraph refers

(*a*) was a capital property, other than a depreciable property, of the taxpayer at the particular time ;

(*b*) was not a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after the particular time ;

(*c*) had an adjusted cost base to the taxpayer at the particular time greater than its fair market value at that time ; and

(*d*) is designated by the taxpayer in the election.

Where a taxpayer elects under this section, the Minister shall, for the purposes of Part I and notwithstanding sections 1010 to 1011, make such assessment or reassessment of the taxpayer's tax, interest and penalties as is necessary for the taxpayer's last taxation year that ended before 23 February 1994 to give effect to the election.

**“851.22.30.** Where a taxpayer has made an election under section 851.22.29 in which a property was designated under subparagraph *d* of the second paragraph of that section, the election is deemed not to have been made where the amount that would be the taxpayer's taxable capital gains from dispositions of property for the taxpayer's last taxation year that ended before 23 February 1994, if this section and section 851.22.31 did not apply, exceeds the aggregate of

(*a*) the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if this section and section 851.22.31 did not apply ;

(*b*) the maximum amount that would have been deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if there were sufficient taxable capital gains for the year from dispositions of property ; and



(c) the amount by which the amount that would be the taxpayer's taxable capital gains for the taxpayer's last taxation year that ended before 23 February 1994 from dispositions of property if no election were made under section 851.22.29 exceeds the aggregate of

i. the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if no election were made under section 851.22.29, and

ii. the maximum amount that would be deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if no election were made under section 851.22.29.

**“851.22.31.** Where a taxpayer has made an election under section 851.22.29 in which a property was designated under subparagraph *d* of the third paragraph of that section, the election is deemed not to have been made where

(a) the aggregate of the amounts determined under paragraphs *a* and *b* of section 851.22.30 in respect of the taxpayer exceeds the amount that would be the taxpayer's taxable capital gains from dispositions of property for the taxpayer's last taxation year that ended before 23 February 1994, if this section and section 851.22.30 did not apply; or

(b) the aggregate of all amounts each of which would, if this section did not apply, be the taxpayer's allowable capital loss for the taxpayer's last taxation year that ended before 23 February 1994 from the deemed disposition of the property under subparagraph *b* of the first paragraph of section 851.22.29 exceeds the total of all amounts each of which is the taxpayer's taxable capital gain for the year from the deemed disposition of the property under subparagraph *a* of the first paragraph of section 851.22.29.”

(2) Subsection 1 applies from the taxation year 1993.

**128.** (1) The said Act is amended by inserting, after section 851.37, the following:

## **“TITLE VIII**

### **“COST OF A TAX SHELTER INVESTMENT**

## **“CHAPTER I**

### **“DEFINITIONS AND GENERAL PROVISIONS**

**“851.38.** In this Title,

“expenditure” means an outlay or expense or the cost or capital cost of a property;

“limited partner” has the meaning that would be assigned by section 613.6 if that section were read without reference to “if the member’s partnership interest is not an exempt interest, within the meaning assigned by section 613.7, at that time and”;

“limited-recourse amount” means the unpaid principal amount of any indebtedness for which recourse is limited, either immediately or in the future and either absolutely or contingently;

“taxpayer” includes a partnership;

“tax shelter investment” means

(a) a property that is a tax shelter for the purposes of section 1079.1; or

(b) a taxpayer’s interest in a partnership where

i. an interest in the taxpayer is a tax shelter investment and the taxpayer’s partnership interest would be a tax shelter investment if

(1) this Act were read without reference to this paragraph and to “, having regard to statements or representations made or proposed to be made in connection with the property,” in the definition of “tax shelter” in the first paragraph of section 1079.1, and

(2) the references, in subparagraphs *a* and *b* of the second paragraph of section 1079.1, to “represented” and to “is represented” were read as “that can reasonably be expected” and “can reasonably be expected”, respectively,

ii. another interest in the partnership is a tax shelter investment, or

iii. the taxpayer’s interest in the partnership entitles the taxpayer, directly or indirectly, to a share of the income or loss of a particular partnership where

(1) another taxpayer holding a partnership interest is entitled, directly or indirectly, to a share of the income or loss of the particular partnership, and

(2) that other taxpayer’s partnership interest is a tax shelter investment.

**“851.39.** For the purposes of this Title, an at-risk adjustment in respect of an expenditure of a particular taxpayer, other than the cost of a partnership interest to which sections 613.2 to 613.4 apply, is, subject to the second paragraph, any amount or benefit that the particular taxpayer, or another taxpayer not dealing at arm’s length with the particular taxpayer, is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness, or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of

- (a) any loss that the taxpayer may sustain in respect of the expenditure ; or
- (b) where the expenditure is the cost or capital cost of a property, any loss from the holding or disposition of the property.

An at-risk adjustment does not include an amount or benefit to the extent that

(a) the amount or benefit is, in respect of the taxpayer, referred to in paragraph *e* of section 399, paragraph *h* of section 412 or paragraph *e* of section 418.6 ; or

(b) the entitlement to the amount or benefit arises

i. because of a contract of insurance with an insurance corporation dealing at arm's length with the taxpayer, and, where the expenditure is the cost of an interest in a partnership, with each member of the partnership, under which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the business of the taxpayer or the partnership,

ii. as a consequence of the death of the taxpayer,

iii. in respect of an amount not included in the expenditure, determined without reference to paragraph *b* of section 851.41, or

iv. by reason of an excluded obligation, as defined in the regulations made under section 359.1, in relation to a share issued to the taxpayer or, where the expenditure is the cost of an interest in a partnership, to the partnership.

**“851.40.** For the purposes of section 851.39,

(a) the amount or benefit to which a taxpayer is at any time entitled and that is provided by way of an agreement or other arrangement under which the taxpayer has a right, either immediately or in the future and either absolutely or contingently, otherwise than as a consequence of the death of the taxpayer, to acquire property shall not be considered to be less than the fair market value of the property at that time ; and

(b) the amount or benefit to which a taxpayer is at any time entitled and that is provided by way of a guarantee, security or similar covenant in respect of any loan or other obligation of the taxpayer shall not be considered to be less than the aggregate of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

## “CHAPTER II

### “COMPUTATION OF THE COST OF A TAX SHELTER INVESTMENT

**“851.41.** Notwithstanding any other provision of this Part, the amount of any expenditure that is a taxpayer’s tax shelter investment, the cost or capital cost of such tax shelter or the amount of any expenditure of a taxpayer an interest in which is a tax shelter investment, shall be reduced, where applicable, to the amount by which the amount of the taxpayer’s expenditure otherwise determined exceeds the aggregate of

(a) any limited-recourse amount of the taxpayer and of any other taxpayer not dealing at arm’s length with the taxpayer that may reasonably be considered to relate to the expenditure ;

(b) the taxpayer’s at-risk adjustment in respect of the expenditure ; and

(c) each amount that is a limited-recourse amount, or an at-risk adjustment, that may reasonably be considered to relate to the expenditure and that is determined under this Title when this Title is applied to any other taxpayer who deals at arm’s length with and holds, directly or indirectly, an interest in the taxpayer.

**“851.42.** For the purposes of this Title, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount unless

(a) at the time the indebtedness was incurred, *bona fide* arrangements, evidenced in writing, were made for repayment by the debtor of the indebtedness and all interest on the indebtedness within a reasonable period not exceeding 10 years ;

(b) the indebtedness bears interest at a rate equal to or greater than the lesser of

i. the prescribed rate of interest in effect at the time the indebtedness was incurred, and

ii. the prescribed rate of interest applicable during the term of the indebtedness ; and

(c) the interest is payable at least annually and is paid in respect of the indebtedness by the debtor not later than 60 days after the end of each taxation year of the debtor that ends in the period referred to in paragraph *a*.

**“851.43.** For the purposes of this Title, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount of a taxpayer that is a partnership, where the recourse against any member of the partnership in respect of the indebtedness is limited, either immediately or in the future and either absolutely or contingently.

**“851.44.** Where at any time a taxpayer has paid an amount, in this section referred to as the “repaid amount”, on account of the principal amount of an indebtedness that was, before that time, the unpaid principal amount of a loan or any other form of indebtedness in respect of an expenditure of the taxpayer to which the first paragraph of section 851.39 applies, in this section referred to as the “former amount or benefit”, the following rules apply:

(a) at all times before that time, the former amount or benefit is considered to have been an amount or benefit referred to in the first paragraph of section 851.39 in respect of the taxpayer; and

(b) subject to section 851.41, the expenditure is deemed to have been made or incurred at that time by the payment of, and to the extent of, the repaid amount.

**“851.45.** Where at any time a taxpayer has paid an amount, in this section referred to as the “repaid amount”, on account of the principal amount of an indebtedness that was, before that time, a limited-recourse amount, in this section referred to as the “former limited-recourse indebtedness”, relating to an expenditure of the taxpayer, the following rules apply:

(a) at all times before that time, the former limited-recourse indebtedness is considered to have been a limited-recourse amount; and

(b) subject to section 851.41, the expenditure is deemed to have been made or incurred at that time by the payment of, and to the extent of, the repaid amount.

**“851.46.** Sections 851.42 and 851.43 do not apply to an indebtedness the principal of which is repaid by a taxpayer not later than 60 days after the indebtedness was incurred and that would otherwise be considered to be a limited-recourse amount solely because of the application of any of those sections unless

(a) any portion of the repayment is made with a limited-recourse amount; or

(b) the repayment may reasonably be considered to be part of a series of indebtedness and repayments that ends more than 60 days after the indebtedness was incurred.

**“851.47.** For the purposes of paragraph *a* of section 851.42, a debtor is deemed not to have made arrangements to repay an indebtedness within 10 years where the debtor’s arrangement to repay can reasonably be considered to be part of a series of indebtedness and repayments that ends more than 10 years after it begins.

### **“CHAPTER III**

#### **“ADMINISTRATION**

**“851.48.** For the purposes of this Title, the unpaid principal of an indebtedness that relates to a taxpayer’s expenditure is deemed to be a limited-recourse amount relating to the expenditure, where it may reasonably be considered that information relating to the indebtedness is available outside Canada and the Minister is not satisfied that the unpaid principal of the indebtedness is not a limited-recourse amount unless

- (a) the information is provided to the Minister ; or
- (b) the information is located in a country with which the Government of Québec has entered into a tax agreement that has force of law in Québec and includes a provision under which the Minister can obtain the information.

**“851.49.** For the purposes of this Title, a taxpayer is deemed not to be dealing at arm’s length with another taxpayer where it may reasonably be considered that information relating to whether the taxpayer and the other taxpayer are not dealing with each other at arm’s length is available outside Canada and the Minister is not satisfied that the taxpayer is dealing at arm’s length with the other taxpayer unless

- (a) the information is provided to the Minister ; or
- (b) the information is located in a country with which the Government of Québec has entered into a tax agreement that has force of law in Québec and includes a provision under which the Minister can obtain the information.

**“851.50.** Notwithstanding section 1010, the Minister may, to give effect to the provisions of this Title, in respect of a taxpayer, redetermine the tax, interest and penalties payable under this Part and make a reassessment or an additional assessment, as the case may be,

- (a) within thirteen years after the later of the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year in which an indebtedness that is a limited-recourse amount arose or the day on which a fiscal return for the taxation year is filed ;
- (b) within fourteen years after the day referred to in paragraph *a* if, at the end of the taxation year concerned, the taxpayer is a mutual fund trust or a corporation other than a Canadian controlled private corporation.”

(2) Subsection 1 applies, subject to subsections 3 to 7, in respect of property acquired and of outlays and expenses made or incurred by a taxpayer after 30 November 1994.

(3) Subsection 1 does not apply where

(1) the property was acquired, or the outlay or expense was made or incurred, before 1 January 1995 pursuant to an agreement in writing made by the taxpayer before 1 December 1994, or the property is

(a) a prescribed film production within the meaning of section 613.3R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), as it read before its repeal, where

i. the principal photography of the production, or, in the case of a production that is a television series, one episode of the series, began before 1 January 1995, and

ii. the principal photography of the production was completed before 2 March 1995, or

(b) an interest in a partnership, all or substantially all of the property of which is a production referred to in subparagraph *a*, acquired before 1 January 1995 by a taxpayer that is a partnership;

(2) in the case of an interest that is a tax shelter for which Book X.1 of Part I of the said Act requires an identification number to be obtained, an identification number was obtained before 1 December 1994; and

(3) there is no agreement or other arrangement under which the taxpayer's obligations in respect of the interest can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act.

(4) Subsection 1 does not apply in respect of prescribed revenue guarantees within the meaning of section 613.3R1 of the Regulation respecting the Taxation Act, as it read before its repeal, that were granted before 1 January 1996.

(5) Paragraph *b* of section 851.41 of the said Act, enacted by subsection 1, does not apply

(1) to property acquired, or outlays or expenses made or incurred, by a taxpayer before 27 April 1995,

(2) to property acquired, or outlays or expenses made or incurred, by a taxpayer before 1 January 1996 pursuant to a particular agreement in writing made by the taxpayer before 27 April 1995 where the following conditions are met:

(a) in the case of a property that is a tax shelter for which Book X.1 of Part I of the said Act requires an identification number to be obtained, an identification number was obtained before 27 April 1995, and

(b) there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act.

(6) Paragraph *a* of section 851.42 of the said Act, enacted by subsection 1, shall be read without reference to "not exceeding 10 years" where

(1) the indebtedness arises

(a) pursuant to an agreement in writing made by the taxpayer before 27 April 1995,

(b) before 1 January 1996, in respect of the acquisition of a prescribed film production within the meaning of section 613.3R1 of the Regulation respecting the Taxation Act, as it read before its repeal, an interest in a partnership all or substantially all of the property of which is such a film production, in this subparagraph referred to as the "particular partnership", or an interest in a partnership all or substantially all of the property of which is an interest in one or more particular partnerships, where

i. the principal photography of the production, or, in the case of a production that is a television series, one episode of the series, began before 1 January 1996, and

ii. the principal photography of the production was completed before 1 March 1996, or

(c) before 1 July 1995 pursuant to the terms of a document that is a final prospectus, preliminary prospectus or registration statement filed before 27 April 1995 with a public authority in Canada and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1 January 1996 on expenditures contemplated by the document, or pursuant to the terms of an offering memorandum distributed as part of an offering of securities where

i. the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

ii. the memorandum was distributed before 27 April 1995,

iii. solicitations in respect of the sale of the securities contemplated by the memorandum were made before 27 April 1995,

iv. the sale of the securities was substantially in accordance with the memorandum, and



v. the funds were expended before 1 January 1996 in accordance with the memorandum; and

(2) the following conditions are met:

(a) in the case of an interest to which subparagraphs *a* and *c* of subparagraph 1 apply that is a tax shelter for which Book X.1 of Part I of the said Act requires an identification number to be obtained, an identification number was obtained before 27 April 1995, and

(b) there is no agreement or other arrangement under which the taxpayer's obligations in respect of the interest can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act.

(7) Section 851.43 of the said Act, enacted by subsection 1, does not apply to a taxpayer in respect of an indebtedness

(a) where the indebtedness arose, and is related to property acquired, or outlays or expenses made or incurred, by the taxpayer, before 27 April 1995, nor

(b) where the indebtedness arose, and is related to property acquired, or outlays or expenses made or incurred, by the taxpayer, before 1 January 1996 pursuant to a particular agreement in writing made by the taxpayer before 27 April 1995 and there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is an amendment to the said Act or if there is an adverse assessment under the said Act.

**129.** (1) The said Act is amended by inserting, after section 851.50, enacted by section (*insert the number of the section in this Act that enacts section 851.50 of the Taxation Act*) of chapter (*insert the chapter number of this Act*) of the statutes of (*insert the year of assent to this Act*), of the following:

## **“TITLE IX**

### **“LOWER ST. LAWRENCE PILOTS’ PENSION PLAN**

**“851.51.** For the purposes of this Title,

“Authority” means the Laurentian Pilotage Authority established by subsection 1 of section 3 of the Pilotage Act (Revised Statutes of Canada, 1985, chapter P-14);

“CPBSL” means the Corporation of the Lower St. Lawrence Pilots established by letters patent under Part II of the Canada Corporations Act, chapter 53 of the Revised Statutes of Canada, 1952, amended by chapter 52 of

the Statutes of Canada, 1964-65, a body corporate contracting with the Authority for the services of pilots under the Pilotage Act, or any successor of the Corporation that carries on similar functions;

“CPHQ” means the Corporation of Pilots for and below the Harbour of Quebec, established by chapter 123 of the Statutes of the Province of Canada, 1860 (23 Vict., c. 123);

“eligible pilot” means a person who became a member of the CPHQ and was licensed by the Authority as a pilot before 1 January 1994, or who, on 31 December 1993, was an apprentice pilot and who, during 1994, became a member of the CPHQ and was licensed by the Authority as a pilot;

“fund” means the fund established by chapter 12 of the Statutes of the Province of Lower Canada, 1805 (45 George III, c. 12) and continued by chapter 114 of the Statutes of the Province of Canada, 1848-49 (12 Vict., c. 114), as amended;

“pension plan” means the plan established by the CPHQ for the administration of the fund;

“Société” means the general partnership composed of the members of the CPBSL and called Les Pilotes du Bas Saint-Laurent, or its successor, and includes any predecessor of the Société that carried on similar functions on behalf of those members.

**“851.52.** For the purposes of Title VI.0.1 of Book VII, any amount paid to the fund by the CPBSL is deemed to be a contribution made by the CPBSL as an employer and not by an eligible pilot.

**“851.53.** For the purposes of paragraph *c.1* of section 998, the CPHQ is deemed to have been incorporated solely for the administration of a registered pension plan and to have operated at all times solely for that purpose.

**“851.54.** For the purposes of this Part, sums paid into the fund by the CPBSL for any taxation year in respect of which the pension plan is a registered pension plan shall not be included in the income of an eligible pilot or in the income of the Société.”

(2) Subsection 1 has effect from 11 June 1998.

**130.** (1) Section 864 of the said Act is amended by replacing, in subparagraph *b* of the second paragraph, “subsection 2” by “the second paragraph”.

(2) Subsection 1 has effect from 27 April 1995.

**131.** (1) Section 890.6.1 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following:

“(a) is not a contribution referred to in paragraph 4, 5 or 6 of section 6804 of regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and”.

(2) Subsection 1 has effect from 9 October 1986. However, where subparagraph *a* of the first paragraph of section 890.6.1 of the said Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read with the word “cotisation” replaced by the word “contribution”.

**132.** (1) Section 985 of the said Act, amended by section 229 of chapter 5 of the statutes of 2000, is again amended

(1) by inserting, in subparagraphs *a* and *b* of the first paragraph, after the words “Her Majesty in right of Canada or a province”, “, other than Québec”;

(2) by inserting, in subparagraph *i* of paragraph *d* of the first paragraph and in the second paragraph, after the words “Her Majesty in right of Canada or a province”, “, other than Québec,”.

(2) Subsection 1 has effect from 1 January 1999.

**133.** (1) Section 985.0.1 of the said Act, enacted by section 230 of chapter 5 of the statutes of 2000, is amended by inserting, after the words “Her Majesty in right of that province”, wherever they appear in paragraph *b*, “, other than Québec,”.

(2) Subsection 1 has effect from 1 January 1999.

**134.** (1) Section 1000 of the said Act is amended by replacing subparagraph *ii* of paragraph *e* of subsection 2 by the following:

“*ii.* 15 June of the following calendar year if the person is an individual who carried on a business in the taxation year, unless the expenditures made in the course of carrying on the business were primarily the cost or capital cost of a tax shelter within the meaning assigned by section 851.38, or if at any time in the taxation year the person is the spouse of such an individual and the person and the individual are not living apart at that time, or”.

(2) Subsection 1 applies from the taxation year 1995.

**135.** (1) Section 1005 of the said Act, amended by section (*insert the number of the section in Bill 97 that amends section 1005 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended by striking out “the amount deemed to be an overpayment under section 760 and”.

(2) Subsection 1 applies from the taxation year 1997.

**136.** (1) Section 1028 of the said Act, amended by section (*insert the number of the section in Bill 97 that amends section 1028 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended by replacing “Where a corporation has held out the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described in sections 786 to 796” by “Where in a taxation year a corporation has held out the prospect that it will pay patronage dividends to its customers as described in sections 786 to 796”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

**137.** (1) Section 1029.8.5.1 of the said Act, amended by section 273 of chapter 83 of the statutes of 1999, is again amended by replacing subparagraphs i to iii of paragraph g by the following :

“i. the State or Her Majesty in right of Canada or a province, other than Québec,

“ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

“iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or”.

(2) Subsection 1 has effect from 12 June 1998.

**138.** (1) Section 1029.8.15.1 of the said Act, amended by section 273 of chapter 83 of the statutes of 1999, is again amended by replacing subparagraphs i to iii of paragraph g by the following :

“i. the State or Her Majesty in right of Canada or a province, other than Québec,

“ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

“iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or”.

(2) Subsection 1 has effect from 12 June 1998.

**139.** (1) Section 1029.8.34 of the said Act, amended by section 189 of chapter 83 of the statutes of 1999, by section 255 of chapter 5 of the statutes of 2000 and by section (*insert the number of the section in Bill 97 that amends*

*section 1029.8.34 of the Taxation Act) of chapter (insert the chapter number of Bill 97) of the statutes of (insert the year of assent to Bill 97), is again amended*

(1) by replacing subparagraph ii of subparagraph *a* of the fifth paragraph by the following :

“ii. 10% of the aggregate of all production costs, excluding the costs referred to in subparagraph i and the costs relating to the script, to development, to the producer, to the production and to the stars, and the post-production costs for the property;”;

(2) by striking out the words “to do so” in the following provisions :

— subparagraph 2 of subparagraph i of paragraph *a* of the definition of “qualified computer-aided special effects and animation expenditure” in the first paragraph ;

— subparagraph i of paragraph *b* of the definition of “qualified computer-aided special effects and animation expenditure” in the first paragraph ;

— subparagraph 2 of subparagraph i of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph ;

— subparagraph i of paragraph *b* of the definition of “qualified labour expenditure” in the first paragraph ;

— the portion of the third paragraph before paragraph *a*.

(2) Paragraph 1 of subsection 1 has effect from 19 December 1990, except in respect of a taxation year of a taxpayer in respect of which the time limits provided for in subsection 2 of section 1010 of the said Act expired before 23 June 1998.

(3) Subject to subsection 2 and to Part I of the said Act, the Minister of Revenue shall, notwithstanding sections 1007, 1010 and 1011 of the said Act, make, pursuant to the said Part I, a determination or redetermination of the amount deemed to have been paid by a corporation under Division II.6 of Chapter III.1 of Title III of Book IX of that Part, and any assessment or reassessment of the interest and penalties of the corporation that are required to give effect to paragraph 1 of subsection 1 and subsection 2.

**140.** (1) Section 1029.8.36.0.0.4 of the said Act, enacted by section 194 of chapter 83 of the statutes of 1999 and amended by section 257 of chapter 5 of the statutes of 2000, is again amended

(1) by striking out paragraph *a* of the definition of “excluded corporation” in the first paragraph ;

(2) by replacing paragraph *c* of the definition of “excluded corporation” in the first paragraph by the following :

“(c) controlled, directly or indirectly in any manner whatever, by one or more corporations exempt from tax under Book VIII at any time in the year ; or” ;

(3) by striking out the words “to do so” in the following provisions :

— subparagraph ii of paragraph *a* of the definition of “qualified computer-aided special effects and animation expenditure” in the first paragraph ;

— subparagraph ii of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph ;

— the portion of the third paragraph before paragraph *a*.

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years that end after 12 February 1998.

**141.** (1) Section 1029.8.36.0.3.3 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999 and amended by section 258 of chapter 5 of the statutes of 2000 and by section (*insert the number of the section in Bill 97 that amends section 1029.8.36.0.3.3 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended

(1) by replacing, in the English text, the definition of “eligible production work” in the first paragraph by the following :

““eligible production work” relating to a property that is a multimedia title means the work to carry out the stages of production of the property from the initial design to completion of the final version, ready to be commercialized, including activities relating to the writing of the script for the property, the development of its interactive structure, the purchase and production of its component elements and its computer development, but does not include activities relating to pressing, media duplication, promotion, distribution or dissemination;” ;

(2) by striking out the words “to do so” in the following provisions :

— subparagraph ii of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph ;

— paragraph *b* of the definition of “eligible production costs” in the first paragraph ;

— the portion of the third paragraph before paragraph *a*.

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 9 May 1996.

**142.** (1) Section 1029.8.36.0.3.8 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999 and amended by section 259 of chapter 5 of the statutes of 2000 and by section (*insert the number of the section in Bill 97 that amends section 1029.8.36.0.3.8 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended, in the English text, by replacing the definition of “eligible production work” in the first paragraph by the following :

““eligible production work” relating to a property that is a multimedia title means the work to carry out the stages of production of the property from the initial design to completion of the final version, ready to be commercialized, including activities relating to the writing of the script for the property, the development of its interactive structure, the purchase and production of its component elements and its computer development, but does not include activities relating to pressing, media duplication, promotion, distribution or dissemination;”.

(2) Subsection 1 applies to taxation years that end after 9 May 1996.

**143.** Section 1046 of the said Act is replaced by the following :

“**1046.** Every person who fails to file a fiscal return as required by section 1002 is liable to a penalty of \$10 for each day of default but not exceeding \$50.”

**144.** Section 1049 of the said Act, amended by section 276 of chapter 5 of the statutes of 2000 and by section (*insert the number of the section in Bill 97 that amends section 1049 of the Taxation Act*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

“**1049.** Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in or acquiesced in the making of, a false statement or omission in a return, certificate, statement or answer, in this section referred to as a “return”, made or filed in respect of a taxation year for the purposes of this Act, is liable to a penalty equal to the greater of \$100 and 50% of the amount by which”.

**145.** Section 1049.2.2.6 of the said Act is amended by replacing the first paragraph by the following :

“**1049.2.2.6.** The Minister may, where the Minister so decides, stay the imposition of a penalty under any of sections 1049.2.1, 1049.2.2, 1049.2.2.1, 1049.2.2.2 and 1049.2.2.5 in respect of a corporation that plans to carry out or has already carried out a transaction referred to in that section, if the corporation

has applied to the Minister to that effect and undertakes to comply with the conditions set out in section 1049.2.2.7.”

**146.** Section 1049.2.2.7 of the said Act is replaced by the following :

**“1049.2.2.7.** The conditions to be complied with by a corporation referred to in section 1049.2.2.6 are that the corporation must issue shares of its capital stock that meet the requirement under paragraph *c* of section 965.7 and are not qualifying shares, or that shares of its capital stock must be the subject of a transaction or operation or a series of transactions or operations which, in the opinion of the Minister, can reasonably be believed to be equivalent to the issue of shares of the capital stock of the corporation that meet the requirement of paragraph *c* of section 965.7, for an amount equal to or greater than the amount of the purchase or redemption referred to in the first paragraph of section 1049.2.1 or 1049.2.2.1 or an amount determined under the second paragraph of section 965.11.9, section 965.11.15 or the second paragraph of section 965.11.17, for a transaction referred to in any of sections 1049.2.2, 1049.2.2.2 and 1049.2.2.5, as the case may be, on or before the expiry of a period of two years that begins on the day after the beginning of the transaction to which section 1049.2.2.6 refers.”

**147.** (1) Section 1079.1 of the said Act, amended by section 280 of chapter 5 of the statutes of 2000, is again amended by replacing the definition of “tax shelter” in the first paragraph by the following :

““tax shelter” means any property, including any right to income, other than a flow-through share or a prescribed property, in respect of which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the property, that, if a person were to acquire an interest in the property, at the end of a particular taxation year that ends within four years after the day on which the interest is acquired, the amount referred to in the second paragraph would equal or exceed the amount by which the cost to the person of the interest in the property at the end of the particular year, determined without reference to Title VIII of Book VI, would exceed the aggregate of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed, directly or indirectly, in respect of the interest in the property by the person or another person with whom the person does not deal at arm’s length;”.

(2) Subsection 1 has effect from 1 December 1994.

**148.** (1) The said Act is amended by inserting, after section 1082.2, the following :

## **“TITLE I.2**

### **“TRANSFER PRICING**

**“1082.3.** In this Title,



“arm’s length allocation” means, in respect of a transaction, an allocation of profit or loss that would have occurred between the participants in the transaction if they had been dealing at arm’s length with each other;

“arm’s length transfer price” means, in respect of a transaction, an amount that would have been a transfer price in respect of the transaction if the participants in the transaction had been dealing at arm’s length with each other;

“documentation-due date” for a taxation year of a taxpayer or a fiscal period of a partnership means

(a) in the case of a taxpayer, the taxpayer’s filing-due date for the year; or

(b) in the case of a partnership, the day on or before which an information return is required by section 1086R23.1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) to be filed for the fiscal period or would be required to be so filed if that section applied to the partnership;

“qualifying cost contribution arrangement” means an arrangement under which reasonable efforts are made by the participants in the arrangement to establish a basis for contributing to, and to contribute on that basis to, the cost of producing, developing or acquiring any property, or acquiring or performing any services, in proportion to the benefits which each participant is reasonably expected to derive from the property or services, as the case may be, as a result of the arrangement;

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act;

“transaction” includes an arrangement or event;

“transfer price” means, in respect of a transaction, an amount paid or payable or an amount received or receivable, as the case may be, by a participant in the transaction as a price, a rental, a royalty, a premium or other payment for, or for the use, production or reproduction of, property or as consideration for services, including services provided as an employee and the insurance or reinsurance of risks, as part of the transaction;

“transfer pricing capital adjustment” of a taxpayer for a taxation year means the aggregate of

(a) the aggregate of all amounts each of which is  $\frac{3}{4}$  of the amount by which the adjusted cost base to the taxpayer of a capital property, other than a depreciable property, or an intangible capital amount of the taxpayer in respect of a business is reduced in the year because of an adjustment made under section 1082.4, or the amount by which the capital cost to the taxpayer of a depreciable property is reduced in the year because of an adjustment made under section 1082.4; and

(b) the aggregate of all amounts each of which is the product obtained by multiplying the aggregate of 3/4 of the amount by which the adjusted cost base to a partnership of a capital property, other than a depreciable property, or an intangible capital amount of a partnership in respect of a business is reduced in a fiscal period that ends in the year because of an adjustment made under section 1082.4, and the amount by which the capital cost to a partnership of a depreciable property is reduced in the fiscal period because of an adjustment made under section 1082.4, by the proportion that the taxpayer's share of the income or loss of the partnership for the fiscal period is of the income or loss of the partnership for the fiscal period, on the assumption that, if the income or loss of the partnership for that fiscal period were nil, the partnership's income for the fiscal period is equal to \$1,000,000;

"transfer pricing capital setoff adjustment" of a taxpayer for a taxation year means the amount that would be the taxpayer's transfer pricing capital adjustment for the year if the references, in the definition "transfer pricing capital adjustment", to "reduced" were read as "increased";

"transfer pricing income adjustment" of a taxpayer for a taxation year means the aggregate of all amounts each of which is the amount by which an adjustment made under section 1082.4, other than an adjustment included in determining a transfer pricing capital adjustment of the taxpayer for a taxation year, would result in an increase in the taxpayer's income for the year or a decrease in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under section 1082.4;

"transfer pricing income setoff adjustment" of a taxpayer for a taxation year means the aggregate of all amounts each of which is the amount by which an adjustment made under section 1082.4, other than an adjustment included in determining a transfer pricing capital setoff adjustment of the taxpayer for a taxation year, would result in a decrease in the taxpayer's income for the year or an increase in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under section 1082.4.

**"1082.4.** The rule set out in the second paragraph applies where a taxpayer or a partnership and a person not resident in Canada with whom the taxpayer or the partnership, or a member of the partnership, does not deal at arm's length, or a partnership of which the person not resident in Canada is a member, are participants in a transaction or a series of transactions and

(a) the terms and conditions made or imposed, in respect of the transaction or series of transactions, between any of the participants in the transaction or series of transactions differ from those that would have been made between persons dealing at arm's length; or

(b) the transaction or series of transactions would not have been entered into between persons dealing at arm's length and can reasonably be considered not to have been entered into primarily for *bona fide* purposes other than to obtain a tax benefit.

Where the conditions set out in the first paragraph are met, any amounts that, but for this Title and sections 1079.9 to 1079.16, would be determined for the purposes of this Act in respect of the taxpayer or the partnership for a taxation year or fiscal period, as the case may be, shall be adjusted to the quantum or nature of the amounts that would have been determined if,

(a) where only subparagraph *a* of the first paragraph applies, the terms and conditions made or imposed, in respect of the transaction or series of transactions, between the participants in the transaction or series of transactions had been those that would have been made between persons dealing at arm's length; or

(b) where subparagraph *b* of the first paragraph applies, the transaction or series of transactions entered into between the participants had been the transaction or series of transactions that would have been entered into between persons dealing at arm's length, under terms and conditions that would have been made between persons dealing at arm's length.

**“1082.5.** Where the amount determined under section 1082.6 in respect of a taxpayer for a taxation year is greater than the lesser of 10% of the amount that would be the taxpayer's gross revenue for the year if this Act were read without reference to sections 422, 422.1, 1079.9 to 1079.16 and 1082.4, and \$5,000,000, the taxpayer, other than the taxpayer all of whose taxable income for the year is exempt from tax under this Part, is liable to a penalty for a year equal to 10% of the amount determined under section 1082.6 in respect of the taxpayer for the year.

**“1082.6.** The amount to which section 1082.5 refers in respect of a taxpayer for a taxation year is equal to the amount by which the aggregate of the taxpayer's transfer pricing capital adjustment for the year and the taxpayer's transfer pricing income adjustment for the year exceeds the aggregate of

(a) the aggregate of all amounts each of which is the portion of the taxpayer's transfer pricing capital adjustment or transfer pricing income adjustment for the year that may reasonably be considered to relate to a particular transaction, where

i. the transaction is a qualifying cost contribution arrangement in which the taxpayer or a partnership of which the taxpayer is a member is a participant, or

ii. in any other case, the taxpayer or a partnership of which the taxpayer is a member made reasonable efforts to determine arm's length transfer prices or arm's length allocations in respect of the transaction, and to use those prices or allocations for the purposes of this Act; and

(b) the aggregate of all amounts each of which is the portion of the taxpayer's transfer pricing capital setoff adjustment or transfer pricing income setoff adjustment for the year that may reasonably be considered to relate to a particular transaction, where

i. the transaction is a qualifying cost contribution arrangement in which the taxpayer or a partnership of which the taxpayer is a member is a participant, or

ii. in any other case, the taxpayer or a partnership of which the taxpayer is a member made reasonable efforts to determine arm's length transfer prices or arm's length allocations in respect of the transaction, and to use those prices or allocations for the purposes of this Act.

**“1082.7.** For the purposes of the definition of “qualifying cost contribution arrangement” in section 1082.3 and of sections 1082.5 and 1082.6, a taxpayer or a partnership is deemed not to have made reasonable efforts to determine and use arm's length transfer prices or arm's length allocations in respect of a transaction or not to have participated in a transaction that is a qualifying cost contribution arrangement, unless the taxpayer or the partnership, as the case may be,

(a) makes or obtains, on or before the taxpayer's or partnership's documentation-due date for the taxation year or fiscal period, as the case may be, in which the transaction is entered into, records or documents that provide a description that is complete and accurate in all material respects of

i. the property or services to which the transaction relates,

ii. the terms and conditions of the transaction and their relationship to the terms and conditions of each other transaction entered into between the participants in the transaction,

iii. the identity of the participants in the transaction and their relationship to each other at the time the transaction was entered into,

iv. the functions performed, the property used or contributed and the risks assumed, in respect of the transaction, by the participants in the transaction,

v. the data and methods considered and the analysis performed to determine the transfer prices or the allocations of profits or losses or contributions to costs, as the case may be, in respect of the transaction, and

vi. the assumptions, strategies and policies that influenced the determination of the transfer prices or the allocations of profits or losses or contributions to costs, as the case may be, in respect of the transaction ;

(b) for each subsequent taxation year or fiscal period in which the transaction continues, makes or obtains, on or before the taxpayer's or partnership's documentation-due date for that year or period, as the case may be, records or documents that completely and accurately describe each material change in the year or period to the matters referred to in subparagraphs i to vi of paragraph *a* in respect of the transaction; and

(c) provides the records or documents described in paragraphs *a* and *b* to the Minister within three months after service, made personally or by registered mail, of a written request therefor.

**“1082.8.** For the purposes of section 1082.5, where a taxpayer is a member of a partnership in a taxation year, the taxpayer’s gross revenue for the year as a member of the partnership from any activities carried on by means of the partnership is deemed to be equal to the product obtained by multiplying the amount that would be the partnership’s gross revenue from the activities if it were a taxpayer, to the extent that that amount does not include amounts received or receivable from other partnerships of which the taxpayer is a member in the year, for a fiscal period of the partnership that ends in the year, by the proportion that the taxpayer’s share of the income or loss of the partnership from its activities for the fiscal period is of the income or loss of the partnership from its activities for the fiscal period, on the assumption that, if the income and loss of the partnership from its activities are nil for the fiscal period, the income of the partnership from its activities for the fiscal period is equal to \$1,000,000.

**“1082.9.** For the purposes of this Title, where a person is a member of a partnership that is a member of another partnership, the following rules apply:

(a) the person is deemed to be a member of the other partnership; and

(b) the person’s share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

**“1082.10.** Section 1082.4 does not apply in respect of a transaction that is a loan referred to in section 127 if the loan was made to a subsidiary controlled corporation and it is established that the money that was lent was used in the subsidiary corporation’s business to gain income.

**“1082.11.** Sections 420, 421, 422 and 422.1 shall not apply to determine an amount under this Act where, but for those sections, the amount would be adjusted by reason of section 1082.4 and if the amount is so adjusted.

**“1082.12.** For the purpose of determining a taxpayer’s gross revenue under sections 1082.5 and 1082.8, a transaction or series of transactions is deemed not to have occurred, if one of the purposes of the transaction or series of transactions was to increase the taxpayer’s gross revenue for the purposes of section 1082.5.

**“1082.13.** An adjustment, other than an adjustment that results in or increases a transfer pricing capital adjustment or a transfer pricing income adjustment of a taxpayer for a taxation year, shall not be made under section 1082.4 unless, in the opinion of the Minister, the circumstances are such that it would be appropriate that the adjustment be made.”

(2) Subsection 1, where it enacts sections 1082.3, 1082.4, 1082.9 to 1082.11 and 1082.13 of the said Act, applies to taxation years and fiscal periods that begin after 31 December 1997.

(3) Subsection 1, where it enacts sections 1082.5 to 1082.8 and 1082.12 of the said Act, applies in respect of adjustments made under section 1082.4 of that Act, enacted by subsection 1, for taxation years and fiscal periods that begin after 31 December 1998. However,

(1) sections 1082.5 to 1082.8 and 1082.12 of the said Act, enacted by subsection 1, do not apply in respect of transactions completed before 11 September 1997; and

(2) the record or document made, obtained or provided to the Minister of Revenue by a taxpayer or a partnership on or before the taxpayer's or partnership's documentation-due date for the taxpayer's or partnership's first taxation year or fiscal period, as the case may be, that begins after (*insert the date of assent to this Act*) is deemed for the purposes of section 1082.7 of the said Act, enacted by subsection 1, to have been so made, obtained or provided on time.

**149.** (1) Section 1094 of the said Act is amended

(1) by replacing the portion before paragraph *b.1* by the following:

“**1094.** For the purposes of this Part, taxable Québec property includes an interest therein and means

(a) an immovable property situated in Québec;

(b) a capital property used in Québec by a person not resident in Canada in carrying on a business, other than

i. property used in carrying on an insurance business, and

ii. ships and aircraft used principally in international traffic and movable property pertaining to their operation if the country in which the person is resident grants substantially similar relief to persons resident in Canada in the year of disposition of the capital property;”;

(2) by replacing paragraph *c* by the following:

“(c) a share of the capital stock of a corporation resident in Québec, other than a mutual fund corporation, that is not listed on a Canadian stock exchange or a foreign stock exchange;”;

(3) by inserting, after paragraph *c*, the following paragraph:

“(c.1) a share of the capital stock of a corporation not resident in Canada that is not listed on a Canadian stock exchange or a foreign stock exchange where, at any particular time during the 12-month period that ends at the time of disposition of that share,

i. more than 50% of the fair market value of all of the properties of the corporation was attributable to

(1) a taxable Québec property,

(2) a Canadian resource property,

(3) a timber resource property,

(4) an income interest in a trust resident in Canada, or

(5) an interest in or option in respect of a property described in any of subparagraphs 2 to 4, whether or not the property exists, and

ii. more than 50% of the fair market value of the share is derived directly or indirectly from one or any combination of

(1) immovable property situated in Québec,

(2) Canadian resource property, and

(3) timber resource property;”;

(4) by replacing paragraphs *d* to *f* by the following :

“(d) a share described in paragraph *c* or *c.1* that is listed on a Canadian stock exchange or a foreign stock exchange, or a share of the capital stock of a mutual fund corporation, if, at any particular time during the 5-year period that ends at the time of disposition of that share by a person not resident in Canada, at least 25% of the issued shares of any class of the capital stock of the corporation belonged to the person not resident in Canada, persons with whom the person not resident in Canada was not dealing at arm’s length, or the person not resident in Canada and persons with whom the person not resident in Canada was not dealing at arm’s length;

“(e) an interest in a partnership where, at any particular time during the 12-month period that ends at the time of disposition of that interest, at least 50% of the fair market value of all of the properties of the partnership was attributable to

(1) a taxable Québec property,

(2) a Canadian resource property,

- (3) a timber resource property,
- (4) an income interest in a trust resident in Canada, or
- (5) an interest in or option in respect of a property described in any of subparagraphs 2 to 4, whether or not the property exists;

“(f) a capital interest in a trust, other than a unit trust, resident in Québec;”;

- (5) by replacing paragraph *h* by the following:

“(h) a unit of a mutual fund trust resident in Québec, if, at any particular time during the 5-year period that ends at the time of disposition of that unit by a person not resident in Canada, at least 25% of the issued units belonged to the person not resident in Canada, persons with whom the person not resident in Canada was not dealing at arm’s length, or the person not resident in Canada and persons with whom the person not resident in Canada was not dealing at arm’s length;”;

- (6) by inserting, after paragraph *h*, the following paragraph:

“(h.1) an interest in a trust not resident in Canada if, at any particular time during the 12-month period that ends at the time of disposition of that interest,

i. more than 50% of the fair market value of all of the properties of the trust was attributable to

- (1) a taxable Québec property,
- (2) a Canadian resource property,
- (3) a timber resource property,
- (4) an income interest in a trust resident in Canada, or

(5) an interest in or option in respect of a property described in any of subparagraphs 2 to 4, whether or not the property exists, and

ii. more than 50% of the fair market value of the interest is derived directly or indirectly from one or any combination of

- (1) immovable property situated in Québec,
- (2) Canadian resource property, and
- (3) timber resource property;”;

- (7) by replacing paragraph *i* by the following:

“(i) a property deemed by this Act to be taxable Québec property.”



(2) Subject to subsection 3, subsection 1 has effect from 27 April 1995, except in respect of dispositions of property that occur before 1 January 1996

(1) to a person who was obliged on 26 April 1995 to acquire the property pursuant to an agreement in writing entered into on or before 26 April 1995, and, for the purposes of this paragraph, a person is deemed not to be obliged to acquire property where the person can be excused from the obligation if there is an amendment to the said Act or if there is an adverse assessment under the said Act, or

(2) pursuant to a prospectus or similar document filed with the relevant securities authority before 27 April 1995.

(3) Where section 1094 of the said Act, enacted by subsection 1, applies

(1) before 30 October 1996, paragraph *h* of that section shall be read with the words “mutual fund trust” replaced by the words “mutual fund corporation”;

(2) before 26 November 1999, paragraphs *c*, *c.1* and *d* of that section shall be read with the words “a Canadian stock exchange or a foreign stock exchange” replaced by the words “a prescribed stock exchange for the purposes of paragraph *d* of section 21.11.20”.

**150.** (1) Section 1096 of the said Act is amended by replacing the portion before paragraph *c* by the following:

**“1096.** For the purposes of sections 1094 and 1095,

(a) a taxable Québec property or a taxable Canadian property does not include a share of the capital stock of a non-resident owned investment corporation if, on the first day of the taxation year of the corporation in which the disposition of the share was made, the corporation did not own taxable Québec property, taxable Canadian property, Canadian resource property, timber resource property or an income interest in a trust resident in Canada; and

(b) a property is deemed to include, at a particular time, an interest in or option in respect of the property, whether or not the property exists at that time.”

(2) Subsection 1, except where it enacts paragraph *b* of section 1096 of the said Act, has effect from 27 April 1995, except in respect of dispositions of property that occur before 1 January 1996:

(1) to a person who was obliged on 26 April 1995 to acquire the property pursuant to an agreement in writing entered into on or before 26 April 1995, and, for the purposes of this paragraph, a person is deemed not to be obliged to acquire property where the person can be excused from the obligation if there is an amendment to the said Act or if there is an adverse assessment under the said Act, or

(2) pursuant to a prospectus or similar document filed with the relevant securities authority before 27 April 1995.

**151.** (1) Section 1097 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

“**1097.** An individual not resident in Canada who proposes to dispose of any taxable Québec property other than property described in section 1102.1, property described in any of paragraphs *c* to *i* of section 1094, or an excluded property may, before the disposition, send to the Minister a notice setting out”.

(2) Subsection 1 has effect from 27 April 1995.

**152.** (1) Section 1102 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“**1102.** Where a person not resident in Canada disposes or proposes to dispose of a property, other than excluded property, that is a life insurance policy described in paragraph *k* of section 1089, a Québec resource property within the meaning of paragraph *d* of section 1089 or any property that is or would, if the person not resident in Canada disposed of it, be a taxable Québec property, to a person with whom the person not resident in Canada was not dealing at arm’s length, for no consideration or for consideration less than the fair market value at the time the person not resident in Canada so disposes of it or proposes to dispose of it, as the case may be, or to any person by way of gift *inter vivos*, the following rules apply :”.

(2) Subsection 1 applies in respect of dispositions of property that occur after 31 December 1996.

**153.** (1) Section 1102.1 of the said Act is replaced by the following :

“**1102.1.** Where a person not resident in Canada disposes or proposes to dispose to a taxpayer, in a taxation year a property, other than excluded property, that is a life insurance policy described in paragraph *k* of section 1089, a Québec resource property within the meaning of paragraph *d* of section 1089, a Québec timber resource property within the meaning of paragraph *e* of section 1089, property, other than capital property, that is immovable property situated in Québec, or depreciable property that is or would, if the person not resident in Canada disposed of it, be a taxable Québec property and the person not resident in Canada pays to the Minister, on account of tax payable for the year by the person not resident in Canada such an amount as is reasonable to the Minister in respect of the disposition or proposed disposition of the property or furnishes the Minister with security acceptable to the Minister in respect of the disposition or proposed disposition of the property, the Minister shall forthwith issue to the person not resident in Canada and to the taxpayer a certificate in prescribed form fixing therein the amount of the proceeds of disposition or proposed disposition of the property or such other amount as is reasonable in the circumstances.

Property described in the first paragraph includes, at a particular time, any interest in or option in respect of the property, whether or not the property exists at that time.”

(2) Subsection 1 applies in respect of dispositions of property that occur after 31 December 1996.

**154.** (1) The said Act is amended by inserting, after section 1102.3, the following section :

**“1102.4.** For the purposes of sections 1097, 1102 and 1102.1, excluded property means

(a) property described in paragraph *i* of section 1094 ;

(b) a share of the capital stock of a corporation listed on a Canadian stock exchange or a foreign stock exchange, or an interest in the share ;

(c) a unit of a mutual fund trust ;

(d) a bond, debenture, bill, note, obligation secured by mortgage or similar obligation ; or

(e) any property that is prescribed to be excluded property.”

(2) Subject to subsection 3, subsection 1 has effect from 27 April 1995, except in respect of dispositions of property that occur before 1 January 1996

(1) to a person who was obliged on 26 April 1995 to acquire the property pursuant to an agreement in writing entered into on or before 26 April 1995 and, for the purposes of this paragraph, a person is deemed not to be obliged to acquire property where the person can be excused from the obligation if there is an amendment to the said Act or if there is an adverse assessment under the said Act, or

(2) pursuant to a prospectus or similar document filed with the relevant securities authority before 27 April 1995.

(3) Where section 1102.4 of the said Act, enacted by subsection 1, applies

(1) before 30 October 1996, paragraph *c* of that section shall be read with the words “mutual fund trust” replaced by the words “mutual fund corporation” ;

(2) before 26 November 1999, paragraph *c* of that section shall be read with the words “a Canadian stock exchange or a foreign stock exchange” replaced by the words “a prescribed stock exchange for the purposes of paragraph *d* of section 21.11.20”.

**155.** (1) Section 1104 of the said Act is amended

(1) by replacing, in the portion of the French text before paragraph *a*, the words “Aux fins” by the words “Pour l’application”;

(2) by replacing paragraphs *f* and *g* by the following :

“(f) at no time in the year did more than 10% of its property consist of shares, bonds or other securities of any one corporation or debtor other than the State or Her Majesty in right of Canada or a province, within the meaning of section 1, other than Québec, or other than a Canadian municipality ;

“(g) no person would have been a specified shareholder of the corporation in the year if

i. section 21.17 were read with “not less than 10%” replaced by “more than 25%” and without reference to the words “of any other corporation that is related to the corporation”,

ii. paragraph *a* of section 21.18 were read with the words “with whom the taxpayer does not deal at arm’s length” replaced by the words “related to the taxpayer”,

iii. section 21.18 were read without reference to paragraph *d* of that section, and

iv. paragraph *a* of subsection 1 of section 19 were read as follows :

“(a) an individual and

i. the individual’s child, as defined in subparagraph *d* of the first paragraph of section 451, who is under 19 years of age, or

ii. the individual’s spouse ;” ;”.

(2) Paragraph 2 of subsection 1, where it enacts paragraph *f* of section 1104 of the said Act, has effect from 12 June 1998.

(3) Paragraph 2 of subsection 1, where it enacts paragraph *g* of section 1104 of the said Act, applies to taxation years of a corporation that begin after 20 June 1996. However, except as provided for in subsections 4 to 9, paragraph *g* of section 1104 of the said Act, enacted by paragraph 2 of subsection 1, does not apply to the corporation, with respect to a particular person and persons related to the particular person, where

(1) the corporation was an investment corporation on 20 June 1996 ;

(2) the particular person is a specified shareholder of the corporation in the year ; and

(3) the particular person was a specified shareholder of the corporation on 20 June 1996 or a specified shareholder of the corporation at any time after

20 June 1996 and before 14 August 1998 and would have been a specified shareholder of the corporation on 20 June 1996 if paragraph *g* of section 1104 of the said Act, enacted by paragraph 2 of subsection 1, were read without reference to subparagraphs ii and iv thereof.

(4) Paragraph 2 of subsection 1, where it enacts paragraph *g* of section 1104 of the said Act, applies to a corporation that was an investment corporation on 20 June 1996, for a taxation year that begins after that date if, at any time after that date and before the end of the year, a particular person described in paragraph 2 of subsection 3 in respect of the corporation for the year either contributes capital to the corporation or acquires a share of the capital stock of the corporation other than by a permitted acquisition.

(5) Paragraph 2 of subsection 1, where it enacts paragraph *g* of section 1104 of the said Act, applies to a corporation that was an investment corporation on 20 June 1996, for a taxation year that begins after that date where, at any time after that date and before the end of the year, a newly related person in respect of the corporation

(1) contributed capital to the corporation ; or

(2) held at any particular time property, in this paragraph referred to as “ineligible investment”, that is

(a) a share of the capital stock of the corporation, or

(b) a share of the capital stock of a corporation, or an interest in a partnership or trust, that held an ineligible investment at that time.

(6) For the purposes of subsection 5, a newly related person in respect of a corporation at any time means a person who, at any other time that is before that time and after 20 June 1996, became related to a particular person described in paragraph 2 of subsection 3 in respect of the corporation, but does not include a person who would, if the taxation year of the corporation that includes that other time had ended immediately before that other time, have been a particular person described in paragraph 2 of subsection 3 in respect of the corporation for the year.

(7) For the purposes of subsections 4 to 6, the following rules apply :

(1) a share is deemed to have been owned by a beneficiary of a trust or a member of a partnership from the later of 20 June 1996 and the time the share was last acquired by the trust or partnership until the particular time, where, at that particular time

(a) a trust that existed on 20 June 1996 distributes a share of the capital stock of a corporation to a person who was a beneficiary under the trust throughout the period from 20 June 1996 to the particular time in satisfaction of all or any part of the beneficiary’s capital interest in the trust ; or

(b) a partnership that existed on 20 June 1996 distributes, on ceasing to exist, a share of the capital stock of a corporation or an interest in a share to a person who was a member of the partnership throughout the period from 20 June 1996 to the particular time; and

(2) where a person who is a beneficiary of a trust or a member of a partnership is deemed by paragraph *b*, *c* or *e* of section 21.18 of the said Act to own a share owned by the trust or partnership, the person is deemed to have acquired the share at the later of the time the share was acquired by the trust or partnership and the time the person last became a beneficiary of the trust or a member of the partnership.

(8) At any time on or after the day of the death of a person described in paragraph 3 of subsection 3 in respect of a corporation and before the third anniversary of that day,

(1) the succession of the deceased person is deemed to be a person described in paragraphs 2 and 3 of subsection 3 who is related to each person who, throughout the period that begins at the end of 20 June 1996 and ends at the time of death, was related to the deceased person;

(2) notwithstanding paragraph 6, the succession is deemed not to be a newly related person in respect of the corporation;

(3) notwithstanding paragraph 9, the acquisition of shares of the corporation's capital stock by the succession from the deceased person is deemed to be a permitted acquisition; and

(4) the succession is deemed not to be a trust for the purposes of subparagraph *a* of paragraph 1 of subsection 7 and paragraphs *b* and *e* of section 21.18 of the said Act.

(9) The definitions in this subsection apply in subsections 3 to 8 and this subsection:

(1) "permitted acquisition" means an acquisition by a particular person of a share of a class of the capital stock of a corporation if, immediately after the time at which the particular person acquires the share, the total percentage of the issued shares of that class held by the particular person and persons related to the particular person, or in the case of acquisitions before 14 August 1998, by the particular person and persons with whom the particular person did not deal at arm's length immediately after the acquisition, does not exceed the permitted percentage for the particular person in respect of that class of shares, which share was

(a) held, at each particular time after 20 June 1996 and before the time at which the particular person acquired it, by the particular person or by a person who was related to the particular person throughout the period that begins at the end of 20 June 1996 and ends at the particular time; or

(b) issued after 20 June 1996 by the corporation as a stock dividend and held, at each particular time after the time the share was issued and before the time at which the particular person acquired it, by the particular person or by a person who was related to the particular person throughout the period that begins at the end of 20 June 1996 and ends at the particular time;

(2) “specified shareholder” has the meaning assigned by paragraph *g* of section 1104 of the said Act, enacted by paragraph 2 of subsection 1;

(3) “related persons” for purposes other than applying the definitions “permitted acquisition” and “permitted percentage” in respect of acquisitions of shares before 14 August 1998, has the meaning that would be assigned by sections 17 to 21 of the said Act if paragraph *a* of subsection 1 of section 19 of the said Act were read as follows:

“(a) an individual and

i. the individual’s child, as defined in subparagraph *d* of the first paragraph of section 451, who is under 19 years of age, or

ii. the individual’s spouse;”;

(4) “permitted percentage” for a particular person in respect of any class of shares of the capital stock of a corporation means

(a) in respect of acquisitions of shares before 14 August 1998, the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the end of 20 June 1996 by the particular person and persons with whom the particular person did not at that time deal at arm’s length; and

(b) in any other case, the greater of

i. the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the end of 20 June 1996 by the particular person and persons related to the particular person, and

ii. the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the beginning of 14 August 1998 by the particular person and persons related to the particular person.

**156.** (1) Section 1117 of the said Act is amended by replacing subparagraphs i and ii of paragraph *b* by the following:

“i. the investing of its funds in property, other than immovable property or an interest in immovable property,

“ii. the acquiring, holding, maintaining, improving, leasing or managing of any immovable property, or an interest in immovable property, that is capital property of the corporation, or”.

(2) Subsection 1 applies from the taxation year 1994.

**157.** (1) Section 1138.4 of the said Act is amended

(1) by replacing the first paragraph by the following :

**“1138.4.** The amount to which subsection 1 of section 1138 refers is, in respect of a corporation that throughout a taxation year was not resident in Canada, equal to the value, for that year, of property that is a ship or aircraft operated by the corporation in international traffic, within the meaning of section 1, or is movable property used in its business of transporting persons or goods by ship or aircraft in international traffic, where the property is used by the corporation in, or held by it in the year in the course of, carrying on any business during the year through an establishment in Canada.”;

(2) by replacing, in the English text, the second paragraph by the following :

“However, the reduction provided for in subsection 1 of section 1138 shall apply in respect of the amount referred to in the first paragraph only if the country in which the corporation is resident imposed neither a capital tax for the year on similar property nor a tax for the year on the income from the operation of a ship or aircraft in international traffic, of any corporation resident in Canada during the year.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1995.

**158.** (1) Section 1175.9 of the said Act is amended by replacing paragraph *a* by the following :

“(a) the greater of

i. the amount by which its surplus funds derived from operations, as defined by paragraph *l* of section 835, at the end of the year, computed as if no tax were payable under this Part or Parts I.3 and VI of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5<sup>th</sup> Supplement) for the year, exceeds the aggregate of all amounts each of which is

(1) an amount on which it was required to pay tax under Part XIV of the Income Tax Act for a preceding taxation year, or would but for subsection 5.2 of section 219 of that Act have been required to pay such tax, except the portion of the amount on which tax was payable, or would have been payable, because of subparagraph i.1 of paragraph *a* of subsection 4 of section 219 of that Act, and



(2) an amount on which it was required to pay, or would but for subsection 5.2 of section 219 of that Act have been required to pay, tax under subsection 5.1 of section 219 of the Income Tax Act for the year because of the transfer of an insurance business to which sections 832.3 and 832.7 apply, and

ii. its attributed surplus, within the meaning assigned by the regulations made under section 818, for the year;”.

(2) Subsection 1 applies in respect of taxation years of a life insurer that end after 9 May 1996. However, where subparagraph ii of paragraph *a* of section 1175.9 of the said Act, enacted by subsection 1, applies to such a taxation year that ends before 1 January 1997, it shall be read with “its attributed surplus, within the meaning assigned by the regulations made under section 818, for the year” replaced by “its attributed surplus for the year, within the meaning assigned by the regulations made under section 818”.

**159.** (1) The said Act, amended by chapters 36, 65, 83 and 86 of the statutes of 1999, by chapter 5 of the statutes of 2000 and by chapters (*insert the chapter number of Bill 97*), (*insert the chapter number of Bill 119*) and (*insert the chapter number of Bill 121*) of the statutes of (*insert the year of assent to Bills 97, 119 and 121*), is again amended

(1) by replacing the words “a prescribed stock exchange” by the words “a Canadian stock exchange or a foreign stock exchange” wherever they appear in the following provisions:

— paragraph *d* of section 21.11.20;

— paragraph *a* of the definition of “qualified security” in section 21.28;

(2) by inserting the words “, other than Québec,” after the words “Her Majesty in right of Canada or a province” in the following provisions:

— subparagraph *a* of the first paragraph of section 101.8;

— subparagraph viii of paragraph *a* of section 710;

— the French text of the definition of “total des dons à l’État” in the first paragraph of section 752.0.10.1;

— paragraph *h* of the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1;

— subparagraph *i* of paragraph *b* of section 752.0.18.12;

— the French text of the first paragraph of section 1175.18;

(3) by inserting the words “, other than Québec” after the words “Her Majesty in right of Canada or a province” in the following provisions:

- subparagraph ix of paragraph *a* of section 710;
  - paragraph *b* of section 710;
  - the English text of the definition of “total Crown gifts” in the first paragraph of section 752.0.10.1;
  - paragraph *i* of the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1;
  - the second paragraph of section 985.1.1;
  - the English text of the first paragraph of section 1175.18;
- (4) by replacing “prescribed stock exchange for the purposes of paragraph *d* of section 21.11.20” by the words “Canadian stock exchange or a foreign stock exchange” in the following provisions:
- section 716.0.2;
  - paragraphs *a* to *c* of the definition of “non-qualifying security” in the first paragraph of section 752.0.10.1;
- (5) by replacing the words “a stock exchange in Canada” by the words “a Canadian stock exchange” wherever they appear in the English text of the following provisions:
- paragraph *f* of section 965.9.1.0.2;
  - paragraph *f* of section 965.9.1.0.4;
  - subparagraphs 1 and 2 of subparagraph v of paragraph *a* of section 965.9.1.0.4.2;
  - subparagraphs i and ii of paragraph *d* of section 965.9.1.0.4.3;
  - subparagraphs 1 and 2 of subparagraph vi of paragraph *a* of section 965.9.1.0.5;
  - subparagraphs i and ii of paragraph *e* of section 965.9.1.0.6;
  - paragraph *d* of section 965.9.1.1;
  - paragraph *b* of section 965.9.7.1;
  - paragraph *b* of section 965.9.7.2;
  - paragraph *c* of section 965.9.8.2;

- the portion of paragraph *e* of section 965.10 before subparagraph i;
- subparagraph 2 of subparagraph ii of paragraph *e* of section 965.10;
- the portion of section 965.10.2 before paragraph *a*;
- subparagraphs ii and iii of paragraph *b* of section 965.10.2;
- the portion of the first paragraph of section 965.10.3 before subparagraph *a*;
- subparagraphs ii and iii of paragraph *b* of section 965.10.3;
- the portion of paragraph *b* of section 965.10.3.1 before subparagraph i;
- subparagraphs 2 and 3 of subparagraph ii of paragraph *b* of section 965.10.3.1;
- the portion of paragraph *b* of section 965.10.3.2 before subparagraph i;
- subparagraphs 2 and 3 of subparagraph ii of paragraph *b* of section 965.10.3.2;
- the portion of paragraph *d* of section 965.11.5 before subparagraph i;
- subparagraph 2 of subparagraph ii of paragraph *d* of section 965.11.5;
- the portion of paragraph *c* of section 965.17.2 before subparagraph i;
- subparagraph 2 of subparagraph ii of paragraph *c* of section 965.17.2;
- section 965.17.3.1;
- section 965.24.1;
- section 965.24.1.1;
- section 965.24.1.2.1;
- section 965.24.1.2.1.1;
- section 1049.1.1;
- section 1049.1.2;
- section 1049.1.3;
- section 1049.1.4;
- section 1049.1.4.1;

- (6) by striking out the words “to do so” in the following provisions :
- the portion of section 1029.8.21.11 before paragraph *a* ;
  - the portion of section 1029.8.21.12 before paragraph *a* ;
  - the portion of section 1029.8.21.13 before paragraph *a* ;
  - the portion of section 1029.8.33.17 before paragraph *a* ;
  - the portion of section 1029.8.33.18 before paragraph *a* ;
  - the portion of section 1029.8.33.19 before paragraph *a* ;
  - subparagraph 2 of subparagraph *i* of paragraph *a* of the definition of “qualified film dubbing expenditure” in the first paragraph of section 1029.8.36.0.0.1 ;
  - the portion of the third paragraph of section 1029.8.36.0.0.1 before paragraph *a* ;
  - subparagraph 2 of subparagraph *i* of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph of section 1029.8.36.0.1 ;
  - subparagraph *i* of paragraph *b* of the definition of “qualified labour expenditure” in the first paragraph of section 1029.8.36.0.1 ;
  - subparagraph *i* of paragraph *b* of the definition of “eligible operating receipts” in the first paragraph of section 1029.8.36.0.1 ;
  - the portion of the third paragraph of section 1029.8.36.0.1 before paragraph *a* ;
  - the portion of section 1029.8.36.0.3.11 before paragraph *a* ;
  - the portion of section 1029.8.36.0.3.12 before paragraph *a* ;
  - the portion of section 1029.8.36.0.3.22 before paragraph *a* ;
  - the portion of section 1029.8.36.0.3.23 before paragraph *a* ;
  - the portion of section 1029.8.36.0.3.36 before paragraph *a* ;
  - the portion of section 1029.8.36.0.12 before paragraph *a* ;
  - the portion of section 1029.8.36.0.13 before paragraph *a* ;
  - the portion of section 1029.8.36.23 before paragraph *a* ;

— subparagraph ii of paragraph *a* of the definition of “qualified construction expenditure” in the first paragraph of section 1029.8.36.54;

— subparagraph ii of paragraph *a* of the definition of “qualified conversion expenditure” in the first paragraph of section 1029.8.36.54;

— the portion of the fourth paragraph of section 1029.8.36.54 before paragraph *a*;

— paragraph *b* of the second paragraph of section 1029.8.36.55;

— paragraph *b* of the second paragraph of section 1029.8.36.55.1;

— subparagraphs i and ii of paragraph *a* of the definition of “repayment of eligible assistance” in the first paragraph of section 1029.8.36.73;

— subparagraphs i and ii of paragraph *b* of the definition of “repayment of eligible assistance” in the first paragraph of section 1029.8.36.73;

— the definition of “deemed start-up expenditure” in the first paragraph of section 1029.8.36.89;

— the portion of the second paragraph of section 1029.8.36.89 before paragraph *a*;

— the portion of section 1029.8.36.98 before paragraph *a*;

— the portion of section 1029.8.36.99 before paragraph *a*;

— the portion of section 1029.8.36.111 before paragraph *a*;

— the portion of section 1029.8.36.112 before paragraph *a*;

— the portion of section 1029.8.36.113 before paragraph *a*;

— the portion of section 1029.8.36.114 before paragraph *a*;

— the portion of section 1029.8.36.121 before paragraph *a*;

— the portion of section 1029.8.36.122 before paragraph *a*;

— subparagraph i of paragraph *a* of section 1029.8.36.122;

— the portion of section 1029.8.36.123 before paragraph *a*;

— subparagraph i of paragraph *a* of section 1029.8.36.123;

— the portion of section 1029.8.36.124 before paragraph *a*;

- section 1129.4.2.1 ;
- section 1129.4.3.3 ;
- section 1129.4.3.7 ;
- section 1129.4.3.11 ;
- section 1129.4.3.16 ;
- paragraphs *a* and *b* of section 1129.33.4 ;
- subparagraphs *a* and *b* of the first paragraph of section 1129.45.5 ;
- subparagraphs *a* and *b* of the first paragraph of section 1129.45.6 ;
- section 1129.45.7.1 ;
- section 1129.45.11 ;
- section 1129.45.15 ;
- the portion of section 1129.45.20 before paragraph *a* ;
- the portion of section 1129.45.25 before paragraph *a* ;

(7) by replacing “incurred by the corporation, after 9 March 1999 and before 1 January 2011, in the year” by “incurred by the corporation after 9 March 1999 and before 1 January 2011 and in the year” in the English text of the following provisions :

- the portion of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.38 before subparagraph *i* ;
- paragraph *a* of the second paragraph of section 1029.8.36.0.3.41 ;
- the portion of paragraph *b* of the definition of “specified wages” in the first paragraph of section 1029.8.36.0.17 before subparagraph *i* ;
- paragraph *a* of the second paragraph of section 1029.8.36.0.24.

(2) Paragraphs 1 and 4 of subsection 1 have effect from 26 November 1999.

(3) Paragraphs 2 and 3 of subsection 1 have effect from 12 June 1998.

(4) Paragraph 5 of subsection 1 has effect from 26 November 1999.

## ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

**160.** (1) Section 15 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by replacing the portion of paragraph *c* before subparagraph *ii* by the following :

“(c) where the disposition occurred because of an election under section 726.9.2 of the Taxation Act, the following rules apply :

i. for the purposes of the Taxation Act, other than sections 64, 78.4, 93 to 104, 130 and 130.1, the taxpayer is deemed to have reacquired the property at a capital cost equal to

(1) where the amount designated in respect of the property in the election did not exceed 110% of the fair market value of the property at the end of 22 February 1994, the taxpayer’s proceeds of disposition of the property determined under paragraph *a* in respect of the disposition of the property that immediately preceded the reacquisition, reduced by the amount by which the amount designated in respect of the property in the election exceeded that fair market value, and

(2) in any other case, the amount otherwise determined under section 726.9.2 of the Taxation Act to be the cost to the taxpayer of the property immediately after the reacquisition referred to in that section, reduced by the amount by which the fair market value of the property on valuation day exceeded the capital cost of the property at the time it was last acquired before 1 January 1972, and”.

(2) Subsection 1 applies from the taxation year 1994.

**161.** (1) Section 51 of the said Act is replaced by the following :

“**51.** This chapter does not apply for the purpose of computing the cost to a taxpayer of any property where section 247 of the Taxation Act, in its application before 1 January 1993, or section 785.1 of that Act applies for that purpose.”

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10 of the Act to amend the Taxation Act and other fiscal provisions (1995, chapter 49) in respect of a corporation that is deemed by that paragraph *a* to have made an election ;

(b) in any other case, from 1 January 1993.

**162.** (1) The said Act is amended by inserting, after section 51.1, the following section :

**“51.2.** Sections 59 to 88.2 do not apply to a disposition by a person not resident in Canada of a taxable Québec property that would not be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 of the Taxation Act (R.S.Q., chapter I-3) were read as they applied in respect of dispositions that occurred on 26 April 1995.”

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**163.** (1) Section 70 of the said Act is amended by replacing paragraph *d* by the following :

“(d) a capital loss or an amount that would, but for sections 239, 534 and 535 of the said Act, as they read before being repealed in respect of the disposition of capital property before 27 April 1995, and sections 238.1, 264.0.1 and 264.0.2 of the said Act, be a loss from the disposition to a corporation after 31 December 1971 of capital property by the person described in paragraph *a* ;”.

(2) Subsection 1 applies in respect of dispositions that occur after 26 April 1995.

**164.** (1) Section 87 of the said Act is amended by replacing “480” by “301.3”.

(2) Subsection 1 applies in respect of exchanges that occur after 31 October 1994.

#### ACT RESPECTING THE RÉGIE DE L’ASSURANCE MALADIE DU QUÉBEC

**165.** (1) Section 34.1.4 of the Act respecting the Régie de l’assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 101 of chapter 86 of the statutes of 1999 and by section (*insert the number of the section in Bill 97 that amends section 34.1.4 of the Act respecting the Régie de l’assurance maladie du Québec*) of chapter (*insert the chapter number of Bill 97*) of the statutes of (*insert the year of assent to Bill 97*), is again amended by replacing, in subparagraph ii of paragraph *a*, “subsection 2” by “the second paragraph”.

(2) Subsection 1 has effect from 27 April 1995.

#### ACT RESPECTING PROPERTY TAX REFUND

**166.** (1) Section 45 of the Act respecting property tax refund (R.S.Q., chapter R-20.1) is replaced by the following :

**“45.** The payment of a property tax refund under this Act is deemed to be a refund by reason of the application of a fiscal law. The Minister may thus



apply the property tax refund owing to a person referred to in section 2 to the payment of any amount for which that person is in debt to the State.”

(2) Subsection 1 has effect from 12 June 1998.

#### ACT RESPECTING THE QUÉBEC SALES TAX

**167.** (1) Section 357 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by inserting, after subparagraph *a* of paragraph 1, the following subparagraph:

“(a.1) notwithstanding subparagraph *a*, in the case of a rebate under the second paragraph of section 351 in respect of property supplied to the person by a supplier who did not, before the end of the year after the day the person ships the property to which the rebate relates outside Québec, charge the tax payable in respect of the supply and the supplier discloses in writing to the person that the Minister has sent a notice of assessment to the supplier for that tax, the day the person pays that tax;”.

(2) Subsection 1 has effect in respect of rebates applied for in circumstances described in subparagraph *a.1* of paragraph 1 of section 357 of the said Act, enacted by subsection 1.

#### ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS

**168.** (1) Section 163 of the Act to amend the Taxation Act and other legislative provisions (1996, chapter 39) is amended by replacing the portion of subsection 2 before paragraph 1 by the following:

“(2) Subsection 1 applies in respect of rights acquired and shares acquired or disposed of in taxation years of foreign affiliates of taxpayers”.

(2) Subsection 1 has effect from 30 October 1996.

#### ACT TO AGAIN AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

**169.** (1) Section 632 of the Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85) is amended by replacing subsection 2 by the following:

“(2) Subsection 1 has effect from 1 July 1992 except for the purposes of section 192.1 of the said Act as it read before its repeal. In addition, where the definition of “short-term accommodation” applies for the period beginning on 23 April 1996 and ending before 1 April 1997 in respect of a supply made during that time, it shall be read as follows:

““short-term accommodation” means any type of overnight shelter, other than shelter on a train, trailer, boat or structure that has means of, or is capable of being readily adapted for, self-propulsion, when supplied as part of a tour package that also includes meals, or food therefor, and the services of a guide, but does not include a residential complex or unit when it

(a) is supplied to the recipient under a timeshare arrangement, or

(b) is included in that part of a tour package that is not the taxable portion of the tour package, within the meaning assigned to those expressions by section 63;.”

(2) Subsection 1 has effect from 19 December 1997.

#### ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS

**170.** (1) Section 273 of the Act to amend the Taxation Act and other legislative provisions (1999, chapter 83) is amended by replacing subsections 3 to 6 by the following :

“(3) Paragraphs 2 and 7 of subsection 1 apply to taxation years that begin after 31 December 1997.

“(4) Paragraphs 3 and 6 of subsection 1 have effect from 1 January 1999.

“(5) Paragraph 4 of subsection 1 applies in respect of shares acquired as part of a public share issue in respect of which the receipt for the final prospectus or the exemption from filing a prospectus is granted after 3 July 1997.

“(6) Paragraph 5 of subsection 1 has effect from 26 November 1999.”

(2) Subsection 1 has effect from 20 December 1999.

**171.** This Act comes into force on *(insert the date of assent to this Act)*.