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chapter I-4

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

TABLE OF CONTENTS

CHAPTER I
DEFINITIONS........ **1**

CHAPTER II
GENERAL PROVISIONS........ **2**

CHAPTER II.1
INCOME INSURANCE BENEFITS........ **5.3**

CHAPTER III
DEPRECIATION........ **6**

CHAPTER IV
DEPRECIABLE PROPERTY

DIVISION I
GENERALITIES........ **15**

DIVISION II
DEPRECIABLE PROPERTY OF A PARTNERSHIP........ **21**

CHAPTER V
INCORPOREAL PROPERTY AND INTERESTS........ **36**

CHAPTER VI
PROFESSIONS........ **43**

CHAPTER VII
CAPITAL GAINS AND LOSSES

DIVISION I
INTERPRETATION AND GENERALITIES........ **49**

DIVISION II
COMPUTATION OF THE ADJUSTED COST BASE OF CAPITAL PROPERTY........ **67**

DIVISION III
COMPUTATION OF THE ADJUSTED COST BASE OF AN INTEREST IN A PARTNERSHIP........ **76**

DIVISION IV
AMALGAMATIONS, EXCHANGES AND REORGANIZATIONS........ **86**

DIVISION V
PROPERTY DEEMED DISPOSED OF ON 22 FEBRUARY 1994........ **88.2**

CHAPTER VII.1
EXPLORATION AND DEVELOPMENT EXPENSES........ **88.3**

CHAPTER VIII
RULES RESPECTING THE COMPUTATION OF INCOME............................ **88.11**

CHAPTER VIII.1
ELECTION OF THE TAXPAYER.. **89.2**

CHAPTER IX
CORPORATIONS AND SHAREHOLDERS.. **90**

CHAPTER X
SAVINGS AND CREDIT UNIONS.. **94**

CHAPTER XI
FINAL PROVISIONS... **104**

REPEAL SCHEDULE

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CHAPTER I

DEFINITIONS

1. In this Act and the regulations, unless the context indicates a different meaning, the following expressions and words mean:

(a) “former Corporation Tax Act” : the Corporation Tax Act (Revised Statutes, 1964, chapter 67);

(b) “former Logging Tax Act” : the Logging Tax Act (Revised Statutes, 1964, chapter 68);

(c) “former Tax Act respecting individuals” : the Provincial Income Tax Act (Revised Statutes, 1964, chapter 69);

(d) “former Acts” : the Acts contemplated in paragraphs *a* to *c*;

(e) “new Acts” : the Taxation Act (chapter I-3) and the Tax Administration Act (chapter A-6.002);

(f) “valuation day” : the day contemplated in section 49.

Any other expression has, in this Act and the regulations, unless the context indicates a different meaning, the meaning assigned in section 1 of the said Taxation Act and sections 2 to 21 of the said Act apply.

1972, c. 24, s. 1; 1975, c. 22, s. 258; 2010, c. 31, s. 175.

1.1. In this Act and the regulations, a legal person, whether or not established for pecuniary gain, is designated by the word “corporation”.

1997, c. 3, s. 72.

CHAPTER II

GENERAL PROVISIONS

2. Where, upon the application of a method adopted by a taxpayer for computing his income from a business, other than a business that is a profession, farm or property for a taxation year to which the Taxation Act (chapter I-3) is applicable, an amount received in the year would not be included in computing his income for the year because, upon the application of that method, it would have been included in computing his income for the purposes of a former Act for a previous year in respect of which it was receivable, if the amount was not included in computing the income for the previous taxation year, it shall be included in computing the income for the year in which it was received.

1972, c. 24, s. 9.

3. A reference in one of the new Acts to a transaction, matter or thing means a corresponding transaction, matter or thing in one of the former Acts or in an Act to which it referred, even if that transaction, matter or thing was designated by a different name in one of the former Acts or in the Act to which it referred.

1972, c. 24, s. 10.

4. The replacement of the former Acts by the new Acts shall not have the effect of invalidating a deed, including a registration, election, certificate or any other transaction, matter or thing provided for by the regulations; if the provisions of the new Acts in respect of such deed differ from those of the former Acts, such deed shall remain valid if it is made to comply with the provisions of the new Acts within the delay provided for by the regulations made for that purpose by the Government.

1972, c. 24, s. 14.

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5. For the purposes of section 933 of the Taxation Act (chapter I-3), an investment made by a trust governed by a registered retirement savings plan after 18 June 1971 and before 1 January 1972 is deemed to have been made on that latter date.

1972, c. 24, s. 17; 1975, c. 22, s. 261.

5.0.1. Section 1011 of the Taxation Act (chapter I-3) does not apply where the taxpayer referred to therein has filed with the Minister a waiver referred to in section 1010 of that Act before 8 July 1972.

1998, c. 16, s. 252.

5.1. In this Act and the regulations, in the Taxation Act (chapter I-3) and the regulations made thereunder, and in any Act amending those Acts and any regulation amending those regulations, a reference to the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) or to a provision of those Acts, is, where the reference applies prior to the date in the dates of application listed in section 71 or 73 of the Income Tax Application Rules that applies in the circumstances, deemed to be a reference to the Income Tax Act (Statutes of Canada, 1970-71-72, chapter 63), to the Income Tax Application Rules, 1971 (Statutes of Canada, 1970-71-72, chapter 63, Part III), or to the corresponding provision of those Acts.

1995, c. 49, s. 238.

5.2. Unless the context indicates otherwise, the mention in a particular provision of this Act, of the Taxation Act (chapter I-3), of an Act that amends either of those Acts or of a regulation made under either of those Acts, or of a regulation that amends such a regulation, of a word, group of words, expression or reference to a provision of an Act, that in accordance with the particular Act referred to in the third paragraph, has replaced another word, group of words, expression or reference that appeared in a provision of this Act or of the Taxation Act, is deemed, where that particular provision applies before 20 March 1997, to be a mention of the replaced word, group of words, expression or reference, as the case may be.

Similarly, unless the context indicates otherwise or the mention has otherwise been modified accordingly, the mention in a particular provision of this Act, of the Taxation Act, of an Act that amends or of a regulation made under either of those Acts, or of a regulation that amends such a regulation, of a word, group of words, expression or reference to a provision of an Act, that is identical to a word, group of words, expression or reference that appeared in a provision of this Act or of the Taxation Act and that has been replaced, in accordance with the particular Act referred to in the third paragraph, by another word, group of words, expression or reference, is deemed, where that particular provision applies after 19 March 1997, to be a mention of the replaced word, group of words, expression or reference, as the case may be.

The particular Act mentioned in the first and second paragraphs is the Act to harmonize certain legislative provisions of a fiscal nature with the Civil Code of Québec (1997, chapter 3).

1997, c. 3, s. 73.

5.2.1. A reference, in the English text of Division II.6.0.1 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3), of Part III.1.1 of that Act or of any provision of an Act amending that division or Part, to “labour expenditure” or “qualified labour expenditure” is, where that reference applies in respect of a taxation year ending before 18 April 1997, deemed to be a reference to “manpower expenditure” or “qualified manpower expenditure”, respectively.

A reference, in the English text of Division II.6 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act, of Part III.1 of that Act or of a provision of an Act amending that division or Part, to “labour expenditure” or “qualified labour expenditure” is, where that reference applies before 1 April 1998, deemed to be a reference to “manpower expenditure” or “qualified manpower expenditure”, respectively.

1999, c. 83, s. 274.

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CHAPTER II.1

INCOME INSURANCE BENEFITS

1998, c. 16, s. 253.

5.3. Section 43 of the Taxation Act (chapter I-3) does not apply to amounts received by a taxpayer that were payable to the taxpayer in accordance with a plan referred to in that section and established before 19 June 1971, if the loss of income mentioned therein results from an event occurring before 1 January 1974.

For the purposes of the first paragraph, a plan that was established before 19 June 1971 does not cease to be a plan established before that date solely because of changes made therein on or after that date for the purpose of ensuring that the plan qualifies as one entitling the employer of persons covered under the plan to a reduction of unemployment insurance premiums, as provided for in subsection 2 of section 50 of the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), as it read before its repeal.

1998, c. 16, s. 253.

CHAPTER III

DEPRECIATION

6. Where a taxpayer had, under the former Acts, to determine the capital cost of property which he had acquired before 1972 to compute the amount of a deduction respecting such property or should have done so if he had claimed such deduction, the amount which is so determined or should have been so determined is deemed, for the purposes of the Taxation Act (chapter I-3), to be the capital cost of such property to the taxpayer.

1972, c. 24, s. 20.

7. For the purposes of the Taxation Act (chapter I-3), depreciation allowed to a taxpayer and the undepreciated portion of the capital cost of property to the taxpayer, at the commencement of his 1972 taxation year, are deemed to be the same as they were at the end of his 1971 taxation year and any excess of capital cost over the undepreciated capital cost of the property at the end of such last year is deemed to have been allowed to him as depreciation under the regulations made under paragraph *a* of section 130 of the said Act.

1972, c. 24, s. 21; 1975, c. 22, s. 264.

8. For the purposes of sections 10 to 14, the deductible difference means the excess of undepreciated portion of the capital cost according to the straight-line method of depreciation over the undepreciated capital cost according to the diminishing balance method of depreciation.

Similarly, the taxable difference means the excess of:

(a) the undepreciated portion of the capital cost according to the diminishing balance method of depreciation over

(b) the undepreciated portion of the capital cost according to the straight-line method of depreciation.

1972, c. 24, s. 22.

9. For the purposes of section 8, the expressions “undepreciated portion of the capital cost according to the straight-line method of depreciation” and “undepreciated portion of the capital cost according to the diminishing balance method of depreciation” have the meaning assigned by the regulations.

1972, c. 24, s. 23.

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10. Where, following the amendment made under the former Corporation Tax Act in computing depreciation, a corporation has a difference deductible from its income for a taxation year beginning after 1961, such corporation, to the extent and on the prescribed conditions, may deduct, in each taxation year, in computing its taxable income, the aggregate or a part of such difference, to the extent that it has not yet been deductible from income for years following 1961, according to the rules hereinafter determined:

(a) if the difference does not exceed $5,000, the aggregate of such difference;

(b) if the difference exceeds $5,000 but does not exceed $10,000, one-half of such difference;

(c) if the difference exceeds $10,000 but does not exceed $25,000, one-third of such difference;

(d) if the difference exceeds $25,000 but does not exceed $100,000, one-fifth of such difference;

(e) if the difference exceeds $100,000 but does not exceed $1,000,000, one-tenth of such difference; or

(f) if the difference exceeds $1,000,000, one-twelfth of such difference.

However, the deduction allowed by any of paragraphs *a* to *f* of the first paragraph must not exceed one-half of the net income of the corporation before such deduction.

1972, c. 24, s. 24; 1972, c. 26, s. 90.

11. Where a corporation disposes of all its capital property in a same taxation year, it may deduct the balance of the difference deductible from the taxable income of that year, and where a corporation disposes of all the capital property of a same class during one taxation year, it may deduct the whole or part of the balance of the difference up to the amount of depreciation recaptured.

1972, c. 24, s. 25; 1972, c. 26, s. 91.

12. Where, following the amendment made under the former Corporation Tax Act in computing depreciation, a corporation has a taxable difference for a taxation year beginning after 1961, such corporation shall, to the extent and on the prescribed conditions, add in computing its taxable income, each taxation year, all or part of such difference, to the extent that it has not yet been added in computing its income for the years after 1961, according to the rules hereinafter determined:

(a) if the taxable difference does not exceed $1,000, the total of such difference;

(b) if the difference exceeds $1,000, a part of such difference, computed according to the method of residual value, by using the rate for the class of property to which the origin of the difference may reasonably be attributed; or

(c) if the residual value of the taxable difference is less than $1,000, the total of such residual value must be added to the income.

1972, c. 24, s. 26; 1972, c. 26, s. 92.

13. Where a corporation contemplated in section 12 and having a taxable difference claims part only of the depreciation to which it is entitled, the amount which it must add in computing its taxable income under paragraph *b* of the said section is equal to the proportion of the amount that the part of the depreciation which it claims is of the aggregate depreciation to which it is entitled.

However, where such corporation does not claim in computing its income for a taxation year the depreciation to which it is entitled, section 12 and the first paragraph of this section do not apply to the same taxation year.

1972, c. 24, s. 27; 1972, c. 26, s. 93.

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14. Where a corporation disposes in a taxation year of all the property of the class on which the rate of depreciation of the taxable difference is based, or where the undepreciated portion of the capital cost of the property of such class becomes nil, it must add to its taxable income, in the same year, all the undepreciated balance of the taxable difference.

1972, c. 24, s. 28; 1972, c. 26, s. 94.

14.1. For the purposes of the Taxation Act (chapter I-3) and this Act, the total depreciation, undepreciated capital cost and capital cost of property of a prescribed class, on the first day of the taxation year 1972 of a corporation that is organized, administered and operated on a cooperative basis under paragraph 3 of section 40 of the former Corporation Tax Act, are deemed to be equal to what they would have been to date in respect of the property, had the corporation always been subject to the former Corporation Tax Act.

1998, c. 16, s. 254.

CHAPTER IV

DEPRECIABLE PROPERTY

DIVISION I

GENERALITIES

15. Where a taxpayer acquired before 1972 depreciable property (other than property that was, at any time, incorporeal capital property within the meaning of the Taxation Act (chapter I-3), as it read at that time) and has owned it without interruption from 31 December 1971 until the time when the taxpayer subsequently disposed of it and the capital cost of such property to the taxpayer is less than its fair market value on valuation day and the proceeds of its disposition, computed without regard to this section, the following rules apply:

(a) for the purposes of sections 93 to 104 of the Taxation Act (chapter I-3), Title IV of Book III of Part I of the said Act and the regulations made under paragraph *a* of section 130 of the said Act, the taxpayer is deemed to have obtained as proceeds of disposition of such property an amount equal to the aggregate of its capital cost and of the excess of the proceeds of disposition, so computed, of the property, over its fair market value on valuation day;

(b) where, following a winding-up, death, other than that of a taxpayer to whom sections 436 to 439 of the Taxation Act apply, or one or more transactions, including a gift, between persons not dealing at arm's length, the property devolves to a person with whom the taxpayer is so related:

i. for the purposes of the Taxation Act, other than, where paragraph *d*.1 of section 99 of that Act applies in determining the capital cost to that person of the property, for the purposes of sections 64, 78.4, 93 to 104, 130 and 130.1 of that Act, that other person is deemed to have acquired the property at a capital cost equal to the proceeds deemed to have been received for the property by the person from whom the property was acquired, and

ii. for the purposes of this section, such other person is also deemed to have acquired the property before 1972 at a capital cost equal to that of the taxpayer who owned it before 31 December 1971 and who remained the owner of it without interruption from such date until the time when he disposed of it;

(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

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(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

ii. for the purposes of this section, the taxpayer's capital cost of the property after the reacquisition is deemed to be equal to the taxpayer's capital cost of the property before the reacquisition, and the taxpayer is deemed to have owned the property without interruption from 31 December 1971 until such time after 22 February 1994 as the taxpayer disposes of it.

1972, c. 24, s. 30; 1973, c. 17, s. 140; 1975, c. 22, s. 265; 1996, c. 39, s. 274; 2001, c. 7, s. 170; 2019, c. 14, s. 468.

16. Section 15 does not apply when either section 440, 444 or 454 of the Taxation Act (chapter I-3) applies in respect of the disposition, by a taxpayer, of depreciable property of a prescribed class to a transferee who is the spouse or trust referred to in section 440, a child referred to in section 444 or the transferee referred to in section 454, as the case may be. However, when the transferee subsequently disposes of such property, section 15 applies as if the transferee had acquired it before 1 January 1972 and had owned it without interruption from 31 December 1971 until the time of the subsequent disposition.

1972, c. 24, s. 31; 1973, c. 17, s. 141; 1977, c. 26, s. 116; 1979, c. 38, s. 34; 1986, c. 15, s. 209.

17. Where sections 436, 439, 518 to 526, 528 to 533, 545 to 549, 556 to 569, the second paragraph of section 614 and sections 620 to 632 and 688 of the Taxation Act (chapter I-3) apply in the case of a death, a winding-up or a transaction, including a gift, whereby a taxpayer has acquired at any particular time after 1971 depreciable property of a prescribed class from a person who had acquired it before 1972 and owned it without interruption from 31 December 1971 until that time, such taxpayer is deemed, for the purposes of section 15, to have acquired such property before 1972 and to have owned it without interruption from 31 December 1971 until the time of its subsequent disposition.

1972, c. 24, s. 32; 1974, c. 18, s. 50; 1975, c. 22, s. 266; 1978, c. 26, s. 220; 2009, c. 15, s. 459.

18. Where, in the 1972 taxation year, following one or more transactions between persons not dealing at arm's length, depreciable property (other than property that was, at any time, incorporeal capital property within the meaning of the Taxation Act (chapter I-3), as it read at that time) was disposed of by its owner and devolved before 1972 to a taxpayer, the following rules apply:

(a) paragraph *c* of section 422 of the Taxation Act (chapter I-3) does not apply to such disposition;

(b) the capital cost of the property to a taxpayer is deemed to be the same as that of the property for the original owner; and

(c) where the capital cost of the property to such original owner exceeds the actual capital cost of the property to the taxpayer, the excess is deemed to have been allowed to the taxpayer as depreciation for the years prior to the acquisition of the property by the taxpayer.

1972, c. 24, s. 33; 1974, c. 18, s. 51; 2019, c. 14, s. 469.

19. The capital cost to a taxpayer, at a particular time after 1971, of depreciable property (other than depreciable property referred to in section 18 or deemed to have been acquired by the taxpayer before 1972 under subparagraph ii of paragraph *b* of section 15, or property that was, at any time, incorporeal capital property within the meaning of the Taxation Act (chapter I-3), as it read at that time) is deemed to be the fair market value of such property at the time of its acquisition, if the taxpayer acquired such property before 1972

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as a dividend, if such property is not a stock dividend and if it is payable in kind in respect of a share that the taxpayer held as owner in the capital stock of a corporation.

1973, c. 17, s. 142; 2019, c. 14, s. 470.

20. In determining a taxpayer's income from farming or fishing for a taxation year, section 94 of the Taxation Act (chapter I-3) does not apply where the taxpayer has disposed of property acquired before 1972 (other than property that was, at any time, incorporeal capital property within the meaning of that Act, as it read at that time) unless the taxpayer has elected to deduct for that taxation year or for a previous year an amount in respect of property acquired before 1972 according to the regulations made under paragraph *a* of section 130 of the Taxation Act, other than a regulation providing solely for an allowance for computing income from farming or fishing.

1972, c. 24, s. 34; 2019, c. 14, s. 470.

DIVISION II

DEPRECIABLE PROPERTY OF A PARTNERSHIP

21. In this division, the expression:

(a) "partner" means a person who, because he was a member of a partnership on 31 December 1971 and was a member without interruption from 18 June 1971 or from the creation of the partnership if it was created subsequently, could reasonably be deemed as having had an interest in the property of the partnership on 31 December 1971;

(b) "acquisition cost" of depreciable property of a prescribed class belonging to a partnership on 31 December 1971 for a person who was member of it on that date means the aggregate of the undepreciated capital cost to such person of the property of such class on 31 December 1971 and of the total depreciation allowed to him before 1972 on the property of such class;

(c) "undepreciated capital cost of any class of depreciable property to the partnership" means the lesser amount obtained after having multiplied, for each partner, the reciprocal of his percentage of interest in property of that class by the excess of the undepreciated capital cost of such property to him on 31 December 1971 over the amount determined under paragraph *a* of section 25;

(d) "percentage of interest" of a member of a partnership in any depreciable property of a prescribed class owned by the partnership on 31 December 1971 means the proportion expressed as a percentage that the interest of such partner in property of that class is of the aggregate of the interests of all the members in the property of that class on such date.

1972, c. 24, s. 35.

22. The rules provided in sections 23 to 27 apply, for the purposes of the Taxation Act (chapter I-3), when a partnership had on 31 December 1971 property of a prescribed class.

1972, c. 24, s. 36.

23. The capital cost of the property contemplated in section 22 is deemed to be to the partnership that portion of the capital cost of that class that the fair market value of that property on 31 December 1971 is of the fair market value of all the property of that class on such date; for that purpose, the capital cost of a class of property is equal to the lesser amount obtained after having multiplied, for each partner, his acquisition cost of the property of that class by the reciprocal of such percentage of interest in that property.

1972, c. 24, s. 37.

24. For the purposes of sections 93 to 104 and 130 of the Taxation Act (chapter I-3) and the regulations made under the said section 130, the undepreciated capital cost of the property of the class contemplated in

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section 22 at any particular time after 1971 is computed as if the excess of the capital cost of that class to the partnership over the undepreciated capital cost of such class to the partnership had been granted to the partnership, in respect of property of that class in accordance with the regulations made under paragraph *a* of section 130 of the said Act in computing its income for previous taxation years.

1972, c. 24, s. 38.

25. In the case contemplated in section 22 a partner may deduct, in computing his income for the 1972 taxation year and the following years, to the extent that he has not deducted it for a previous year, an amount that is the aggregate:

(a) of the lesser of the undepreciated capital cost to that partner of property of that class on 31 December 1971 or of the excess of the capital cost to such partner of all the property of that class contemplated in the said section, over the portion of the capital cost of that class to the partnership corresponding to the percentage of interest of that partner in property of that class; and

(b) of an amount equal to the excess of the undepreciated capital cost of property of that class to such partner on 31 December 1971 less the amount contemplated in paragraph *a* for the property of that class, over the portion of the undepreciated capital cost of property of that class to the partnership equal to the percentage of interest of that partner in such property.

1972, c. 24, s. 39.

26. The deductions allowed for any year under section 25 to a partner may be claimed by a person who has become a member of the partnership after 18 June 1971 and has remained a member without interruption until 31 December 1971, but it shall not exceed in that case 10% of the amount of the aggregate described in that section.

1972, c. 24, s. 40.

27. For the purposes of section 28 of the Taxation Act (chapter I-3), the deduction provided for in sections 25 and 26 is deemed to be a deduction allowed by Title VI of Book III of Part I of the said Act.

1972, c. 24, s. 41.

28. The rules provided in sections 29 to 33 apply, for the purposes of the Taxation Act (chapter I-3), when a partnership had on 31 December 1971 depreciable property other than property of a prescribed class.

1972, c. 24, s. 42.

29. The capital cost of the property contemplated in section 28 to the partnership is computed in the manner contemplated in section 23 as if that property constituted a prescribed class and as if the cost of acquisition of that property for each member of the partnership on 31 December 1971 was its actual cost or its presumed cost under the regulations made under former Acts.

1972, c. 24, s. 43; 1973, c. 17, s. 143.

30. For the purposes of sections 93 to 104 and 130 of the Taxation Act (chapter I-3) and the regulations made under said section 130, the undepreciated capital cost of property of a class at a particular time after 1971 must be computed as if the excess of the capital cost of that property to the partnership, as determined in section 29, over the amount determined under section 31 was allowed to the partnership in respect of that property under the regulations made under section 130 of the said Act in computing its income for previous taxation years.

1972, c. 24, s. 44.

31. The amount contemplated in section 30 is that which would be the undepreciated capital cost to the partnership of a class of depreciable property including the property contemplated in the said section, and is

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equal to the lesser amount obtained after having multiplied for each partner, the reciprocal of his percentage of interest in that property by the undepreciated capital cost of that property to him on 31 December 1971.

1972, c. 24, s. 45.

32. In the case contemplated in section 28, each partner may deduct in computing his income for 1972 and subsequent years, to the extent that he has not done so for previous taxation years, the excess of the undepreciated capital cost of that property to him on 31 December 1971 over the portion of the undepreciated capital cost of that property to the partnership corresponding to his percentage of interest in that property if such property constituted a prescribed class.

1972, c. 24, s. 46.

33. For the purposes of sections 31 and 32, the undepreciated capital cost of property on 31 December to any partner is the excess of the actual cost of that property to him over the aggregate of the amounts allowed him on such property as a capital cost allowance in computing his income for taxation years ending before 1972.

1972, c. 24, s. 47.

34. For the purposes of sections 31, 32 and 33, a partner includes any person who was a member of the partnership on 31 December 1971.

1972, c. 24, s. 48.

35. For the purposes of section 28 of the Taxation Act (chapter I-3), the deduction contemplated in section 32 is deemed to be a deduction allowed by Title VI of Book III of Part I of the said Act.

1972, c. 24, s. 49.

CHAPTER V

INCORPOREAL PROPERTY AND INTERESTS

2005, c. 1, s. 298.

36. Where, as a result of a transaction made after 31 December 1971, a taxpayer has or may become entitled to receive an amount (in this chapter referred to as the “actual amount”) that may reasonably be considered to be consideration received by the taxpayer for the disposition of, or for allowing the expiration of, a government right, in respect of a business carried on by the taxpayer throughout the period beginning on 1 January 1972 and ending immediately after the transaction, for the purposes of the Taxation Act (chapter I-3), the amount that the taxpayer has or may become entitled to receive is deemed to be equal to the amount by which the actual amount exceeds the amount described in section 37.

1972, c. 24, s. 50; 1973, c. 17, s. 144; 1978, c. 26, s. 221; 2019, c. 14, s. 471.

37. The amount to which section 36 refers is equal to the greater of

(a) the aggregate of the expenditures made or incurred by the taxpayer as a result of a transaction prior to 1 January 1972 for the acquisition of the government right or original right in this respect, to the extent that such expenditures were not otherwise deductible in computing the taxpayer’s income for any taxation year and would have been an incorporeal capital amount within the meaning of the Taxation Act (chapter I-3), as it read on 1 January 1972, if they had been made or incurred as a result of a transaction occurring after 31 December 1971; and

(b) the fair market value to the taxpayer on 31 December 1971 of the right referred to in section 40, if no expenditure was made or incurred by the taxpayer for the acquisition of the right, or, if expenditures were made or incurred, where such expenditures would have been an incorporeal capital amount within the

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meaning of the Taxation Act, as it read on 1 January 1972, if they had been made or incurred as a result of a transaction occurring after 31 December 1971.

1973, c. 17, s. 145; 1973, c. 18, s. 37; 1975, c. 22, s. 267; 2005, c. 1, s. 299; 2019, c. 14, s. 471.

38. For the purposes of sections 36 and 37, a government right means a right or permit issued to the taxpayer by the government of a province or of Canada, a Canadian municipality or a body authorized for such purpose by such government or municipality, which is an essential condition for the carrying out by the taxpayer of business under an Act of such government or a by-law of such municipality and which the taxpayer has acquired following a transaction prior to 1 January 1972, or at any time whatsoever to ensure uninterrupted continuation of rights essentially similar to the rights which the taxpayer held previously under a government right which the taxpayer held before that time.

1973, c. 17, s. 145; 2019, c. 14, s. 471.

39. For the purposes of section 37, an original right in respect of a government right is a right or permit described in section 38 and acquired by a taxpayer following a transaction made before 1972 for purposes other than those contemplated by section 38, if the government right was acquired by the taxpayer to ensure without interruption the continuation of rights essentially similar to the rights which he held under such right or permit.

1973, c. 17, s. 145; 2019, c. 14, s. 472.

40. For the purposes of paragraph *b* of section 37, a right contemplated therein in respect of a taxpayer means a right owned by him on 31 December 1971 that was an original right, or a government right that he had acquired in substitution for an original right or that was one of a series of government rights acquired by him for the purpose of effecting the continuation, without interruption, of rights substantially similar to those he held under the original right.

1975, c. 22, s. 268; 2019, c. 14, s. 473.

41. Where the actual amount is receivable from a person not dealing at arm’s length with the taxpayer referred to in section 36, the amount by which the actual amount exceeds the amount deemed to be the amount that the taxpayer has or may become entitled to receive under that section is deemed, for the purpose of computing the income of that person, not to be to the person an expense, outlay or cost, as the case may be.

1972, c. 24, s. 51; 1973, c. 17, s. 146; 2019, c. 14, s. 474.

41.1. Where after 1971 a taxpayer has acquired a particular government right referred to in section 36 from a person with whom the taxpayer was not dealing at arm’s length or pursuant to an agreement with a person with whom the taxpayer was not dealing at arm’s length, if under the terms of the agreement that person allowed the right to expire so that the taxpayer could acquire a substantially similar right from the authority referred to in section 38 that had granted the right to that person, and an actual amount subsequently becomes receivable by the taxpayer as consideration for the disposition by the taxpayer of, or for the taxpayer allowing the expiry of, such right or any other government right acquired by the taxpayer for the purpose of effecting the continuation, without interruption, of rights that are substantially similar to the rights that the taxpayer previously had under the particular government right, for the purposes of the Taxation Act (chapter I-3), the amount that has so become receivable by the taxpayer is deemed to be the amount that would have been determined under section 36 if that person and the taxpayer had at all times been the same person.

1978, c. 26, s. 222; 2019, c. 14, s. 474.

41.2. For the purposes of this chapter, an amalgamation, within the meaning of section 544 of the Taxation Act (chapter I-3), is deemed to be a transaction between persons not dealing at arm’s length.

1978, c. 26, s. 222.

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41.3. In this chapter, a receivable amount, an amount receivable or an amount that becomes receivable by a taxpayer is an amount that the taxpayer has or may become entitled to receive.

1990, c. 59, s. 366.

42. *(Repealed).*

1972, c. 24, s. 52; 1986, c. 19, s. 207.

CHAPTER VI

PROFESSIONS

43. In this chapter, an investment interest in a business at the end of a taxation year means, for a taxpayer who is not a corporation, the aggregate of each amount attributable to each fiscal period in Canada of such business by the taxpayer alone or in partnership and is equal:

(a) in the case of the carrying on of a business by a sole proprietor, to the excess of the aggregate of the amounts that were included in computing his income for the taxation year or a previous year and were receivable at the end of the fiscal period of that business ending in the taxation year over the reserve for doubtful debts claimed by the taxpayer under section 140 of the Taxation Act (chapter I-3) for such fiscal period; or

(b) in the case of the carrying on of a partnership business, to the adjusted cost base to the taxpayer of his interest in the partnership immediately after the end of the fiscal period of the partnership ending in the year.

1972, c. 24, s. 53.

44. For the purposes of this chapter, investment interest in a business at the end of a taxation year means, for a taxpayer that is a corporation, the lesser of:

(a) the aggregate that would be determined under section 43 if it were to apply to a corporation; and

(b) its 1971 accounts receivable, decreased at the rate of 10% per annum computed on the straight-line method for each taxation year ending after 1971 and either before or at the same time as the taxation year.

1972, c. 24, s. 54; 1972, c. 26, s. 95.

45. The 1971 accounts receivable in respect of a business of a taxpayer are computed, for the purposes of this chapter, by adding:

(a) all amounts that he is entitled to receive under section 215 of the Taxation Act (chapter I-3) in respect of property sold or services rendered in the course of the business, within the meaning of section 217 of the said Act, in taxation years ending before 1972 and not included in computing his income for such years, other than the debts that he establishes to have become bad debts before the end of the 1971 fiscal period of the business; and

(b) the aggregate of all amounts in respect of each partnership by means of which the taxpayer carried on that business, equal to such portion as is designated by him in his fiscal return to be attributable to him, of the accounts receivable of the partnership determined under paragraph *a*.

However, where the aggregate of the portions designated by all the partners is less than the amount that is so determined in respect of the partnership, the Minister himself may designate the portion of the accounts receivable of the partnership attributable to the taxpayer, and such portion is then deemed to be the portion designated by the taxpayer.

1972, c. 24, s. 55.

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46. In computing the income of a taxpayer from a business that is a profession, for a taxation year ending after 1971, the following rules apply:

(a) the taxpayer may deduct the lesser of his investment interest in that business and the amount deducted under this paragraph in computing his income from that business for the immediately preceding taxation year;

(b) in the case of the taxation year 1972, the taxpayer is deemed, for the purposes of paragraph *a*, to have deducted for the year 1971 an amount equal to the aggregate of the 1971 accounts receivable of that business at the end of the 1971 fiscal period;

(c) the taxpayer must include in computing his income from that business any amount he has deducted under paragraph *a* for the preceding taxation year; and

(d) the taxpayer must include every amount which he receives during the year on account of debts in respect of that business, that were established by him to have become bad debts before the end of the 1971 fiscal period of such business.

1972, c. 24, s. 58; 1972, c. 26, s. 96.

47. The deduction allowed by paragraph *a* of section 46 shall not be claimed:

(a) for the taxation year in which the taxpayer dies;

(b) for any taxation year if the taxpayer ceases to be resident in Canada and to carry on his business during that year or the following year; nor

(c) for any taxation year where the taxpayer is not resident in Canada at any time during that year and ceases to carry on his business during that year or the following year.

1972, c. 24, s. 59; 1974, c. 18, s. 52; 1977, c. 26, s. 117.

48. For the purposes of section 43, a taxpayer who is deemed to be still a member of a partnership by virtue of section 618 of the Taxation Act (chapter I-3) or to have a residual interest in a partnership by virtue of sections 639 to 644 of the said Act is deemed to carry on a business in Canada by means of that partnership.

1975, c. 22, s. 269.

CHAPTER VII

CAPITAL GAINS AND LOSSES

DIVISION I

INTERPRETATION AND GENERALITIES

49. Valuation day, for the purposes of this Act and the Taxation Act (chapter I-3), means 22 December 1971 in relation to securities and shares prescribed as publicly traded, and 31 December 1971 in relation to any other property.

1972, c. 24, s. 60.

50. For the purposes of this chapter, the fair market value on valuation day of a security or share prescribed as publicly traded is deemed to be the greater of the amount prescribed in that regard and the fair market value as otherwise determined on the same day.

1972, c. 24, s. 61.

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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 (chapter I-3), in its application before 1 January 1993, or section 785.1 of that Act applies for that purpose.

1972, c. 24, s. 62; 2001, c. 7, s. 171.

51.1. This chapter does not apply in respect of the disposition, deemed or not deemed, of a property that a taxpayer is deemed to have reacquired previously under section 832.1 of the Taxation Act (chapter I-3).

1984, c. 15, s. 245.

51.2. Sections 59 to 88.2 do not apply in respect of a disposition by a person not resident in Canada of a property

(a) that the person last acquired before 27 April 1995;

(b) that would not be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 of the Taxation Act (chapter I-3) were read as they applied in respect of dispositions that occurred on 26 April 1995; and

(c) that would be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 of the Taxation Act were read as they applied in respect of dispositions that occurred on 1 January 1996.

2001, c. 7, s. 172; 2004, c. 8, s. 212.

52. In this chapter,

(a) "obligation" includes a debenture, bill, note, hypothecary claim, mortgage, agreement of sale or any other similar obligation;

(b) "capital property" means any depreciable property of the taxpayer and his other property any gain or loss from the disposition of which would, if the property were disposed of after 1971, be a capital gain or a capital loss.

1972, c. 24, s. 63; 1996, c. 39, s. 275; 2005, c. 1, s. 300.

53. The amortized cost to a taxpayer of any obligation on 1 January 1972, for the purposes of this chapter is:

(a) the principal amount, if its actual cost to the taxpayer is not less than 95% and is less than 100% of its principal amount and if the obligation was issued before 8 November 1969;

(b) the actual cost to him if that cost is not less than 100% and is less than 105% of its principal amount; and

(c) in other cases, the actual cost to him plus that portion of the excess of its principal amount over its actual cost determined without regard to section 68, or less that portion of the excess of that actual cost so determined over that principal amount, that the proportion of the number of full months in the period commencing with the day or last time the taxpayer acquired the obligation and ending on valuation day is of the number of full months in the period commencing with the day of such acquisition and ending on the day of maturity of the obligation.

1972, c. 24, s. 64.

54. For the purposes of this chapter the actual cost to a person of any property is the excess of its cost to him computed without regard to the provisions of this chapter but subject however to the express provisions

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to the contrary contained therein, on the portion of such cost which was deductible in computing his income for a taxation year ending before 1972.

1972, c. 24, s. 65; 1973, c. 17, s. 147.

55. For the purposes of this chapter, the actual cost, to a taxpayer, at a given time after 1971, of shares owned by him of any class of the capital stock of a corporation resulting from an amalgamation on 31 December 1971 and thereafter without interruption until that time and which were acquired by him on account of the amalgamation at the time of conversion of shares owned by him in the capital stock of a corporation replaced, is the proportion of the actual cost, for him, of all his shares so converted, represented by the ratio between the fair market value, immediately after the amalgamation, of the shares of that class so acquired by him and that at the same time of all shares of the capital stock of the new corporation that he has so acquired.

1973, c. 17, s. 148.

56. For the purposes of this chapter, the actual cost to an individual at a given time after 1971, of a share owned by him on 31 December 1971 and thereafter without interruption until that given time and which is acquired by him in a taxation year prior to 1972 in accordance with an agreement contemplated by section 114 of the former Tax Act respecting individuals is equal to the greater of its fair market value at the time when he has so acquired it or its actual cost, to him, computed without taking account of this section.

1973, c. 17, s. 148.

57. For the purposes of this chapter, the actual cost to a taxpayer, at a given time after 1971, of capital property which he has received before 1972 and owned by him thereafter without interruption until that given time is its fair market value at the time when it was received if it was received as a dividend which is not a stock dividend and which is payable in kind on a share owned by him or if it was received from a retirement plan, a retirement savings plan, a profit sharing plan, a deferred profit sharing plan or a supplementary unemployment benefit plan; in the case of a share received as a stock dividend, that cost is the amount which the taxpayer was deemed to have received as a dividend under subsection 1 of section 112 of the former Tax Act respecting individuals on account of the receipt of that share.

1973, c. 17, s. 148; 1975, c. 22, s. 270; 2019, c. 14, s. 475.

58. Title IV of Book III of Part I of the Taxation Act (chapter I-3) applies to any disposition of property made after 1971 and to any transaction or event later than 1971 whereby any disposition of property is made or deemed to have been made in accordance with the said title.

1972, c. 24, s. 66.

59. For the purposes of sections 263 and 485 to 485.18 of the Taxation Act (chapter I-3), the principal amount of any debt or other obligation that was outstanding on 1 January 1972 is deemed to be equal to the lesser of the principal amount, otherwise determined for the purposes of the said Act, and the fair market value, on valuation day, of the obligation.

Where subparagraph *a* of the first paragraph of section 263 of the said Act applies to such a debt or other obligation, it shall be read as if the reference therein to “the amount for which the obligation was issued” were a reference to “the lesser of the principal amount and the amount for which the obligation was issued”.

1972, c. 24, s. 67; 1996, c. 39, s. 276.

60. *(Repealed).*

1972, c. 24, s. 68; 1986, c. 19, s. 207.

61. In the case provided for in section 444 or 459 of the Taxation Act (chapter I-3) in respect of the child of a taxpayer, subparagraph *a* of the first paragraph or subparagraph *b* of the second paragraph of that section

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444 or, as the case may be, paragraph *b* of section 462 of the said Act, does not apply to computing the cost, for the child, of land described in the said section 444 or 459, respectively, if such land belonged to the taxpayer on 31 December 1971 and thereafter without interruption until his death or, as the case may be, until the transfer; in such case, section 69 applies to the transfer or assignment of such land to the child as if the date of 18 June 1971, mentioned therein, was replaced by that of 31 December 1971.

For the purposes of this section, the expression "child" of a taxpayer includes a grandchild or a great grandchild of the taxpayer and a person who, at some time before he attained the age of 21 years, was wholly dependent on the taxpayer for support and of whom the taxpayer had, at that time, custody and control in law or in fact.

1973, c. 17, s. 149; 1973, c. 18, s. 38; 1974, c. 18, s. 53; 1986, c. 15, s. 210.

62. For the purposes of computing, on 31 December 1971, or at any later time in the case contemplated by the third paragraph of section 68, the fair market value of a share which a taxpayer resident in Canada owns in the capital stock of his foreign affiliate, the fair market value at that time of an asset of such affiliate is deemed its principal if section 477 or 478 of the Taxation Act (chapter I-3) applies to such asset on account of the election contemplated therein and if it is subsequently acquired from the affiliate by the taxpayer as a dividend payable in kind, as a benefit deemed to be received by the taxpayer under paragraph *b* of said section 477 or as consideration for the settlement or extinction of an obligation described in said section 478.

The same applies to compute on 31 December 1971 the fair market value of such a share if section 470 of the Taxation Act applies to that section on account of the election contemplated by section 479 of the said Act and if the asset is acquired subsequently from the affiliate by the taxpayer in the manner provided for in the first paragraph of said section 479.

1973, c. 17, s. 149.

63. For the purposes of sections 271, 274, 276 and 277 of the Taxation Act (chapter I-3), where a taxpayer owned, on 31 December 1971, a property that could have been his principal residence within the meaning of the said sections but for the fact that before 1972 he commenced to use it for the purpose of gaining income therefrom or from a business, he may elect in his fiscal return for the 1974 or 1975 taxation year to be deemed to have so commenced to use such property on 1 January 1972.

1975, c. 22, s. 271.

64. A taxpayer who makes the election mentioned in section 63 is deemed to have made, with respect to the property, the election mentioned in section 284 of the Taxation Act (chapter I-3) in his fiscal return for the 1972 taxation year.

1975, c. 22, s. 271.

65. No amount shall be deducted under paragraph *a* of section 130 of the Taxation Act (chapter I-3) for the 1974 and subsequent taxation years in respect of the property described in section 63 while the election referred to therein is in force.

1975, c. 22, s. 271.

66. For the purposes of this chapter, a taxpayer who disposes before 1972 but after 18 June 1971 of any property which he owned on such date and redeems within a delay of thirty days after that disposition the same property or purchases a property almost similar thereto, is deemed to have owned on 18 June 1971 the property so redeemed or purchased and thereafter without interruption until the time of redemption or purchase.

In the case of the property redeemed, its actual cost or its depreciated cost on 1 January 1972 is deemed to be the same to the taxpayer as if he had not disposed of it; in the case of the property so purchased that is

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almost similar, that actual cost and that depreciated cost are deemed to be on 1 January 1972 the actual cost or the depreciated cost of the property so disposed of on the date of its disposition.

1972, c. 24, s. 69.

DIVISION II

COMPUTATION OF THE ADJUSTED COST BASE OF CAPITAL PROPERTY

67. This division applies to the computation of the adjusted cost base of capital property other than depreciable capital property and other than any interest in a partnership.

1972, c. 24, s. 70.

68. In computing the adjusted cost base of any capital property that was owned by the taxpayer on 31 December 1971 and thereafter without interruption until such time as he disposes of it, the cost to him of such capital property is deemed to be the amount that is neither the greatest nor the least of the following three amounts, namely:

(a) its actual cost or, in the case of an obligation, its amortized cost on 1 January 1972;

(b) its market value on valuation day; or

(c) the amount by which the aggregate of the proceeds of disposition of the capital property, determined without reference to sections 93.1 to 93.3 of the Taxation Act (chapter I-3), all amounts required by section 257 of the said Act to be deducted in computing the adjusted cost base to the taxpayer immediately before the disposition, and all amounts described in paragraph *e* of section 70 that are relevant in computing the adjusted cost base to the taxpayer immediately before the disposition, exceeds the aggregate of all amounts required by section 255 of the said Act, if that section were read without reference to paragraphs *c*.1, *c*.1.1, *f*.1 and *h*.0.0.1 thereof, to be included in computing the adjusted cost base to the taxpayer immediately before the disposition and all amounts described in paragraph *b* of section 70 that are relevant in computing the adjusted cost base to the taxpayer immediately before the disposition.

However, if the amounts determined under more than one of paragraphs *a* to *c* are identical, such identical amount is then deemed to be the cost of the capital property to the taxpayer.

Likewise, in computing the adjusted cost base of such capital property at a particular time before it is disposed of by the taxpayer, the cost of the capital property is the cost that would be determined under this section as if he had disposed of it at that time and as if the proceeds of disposition had been equal to its fair market value at the same time.

1972, c. 24, s. 71; 1973, c. 17, s. 150; 1984, c. 15, s. 246; 1986, c. 19, s. 208; 1996, c. 39, s. 277.

69. Where any capital property contemplated in section 67 and owned by a taxpayer, hereinafter called the original owner, on 18 June 1971 devolves to any subsequent owner with whom the taxpayer does not deal at arm's length by winding-up, death or one or more transactions, including a gift, between persons not dealing at arm's length, the following rules apply in computing, at any particular time after 1971, the adjusted cost base of the capital property to the subsequent owner if the original owner has not elected as contemplated in section 72 in respect of such capital property:

(a) such capital property is deemed to have been owned by the subsequent owner on 18 June 1971 and thereafter without interruption until the particular time;

(b) for the purposes of this chapter, the actual cost of the capital property or, in the case of an obligation, its amortized cost on 1 January 1972, is deemed to be the same for the subsequent owner as for the original owner; and

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(c) at the time when the capital property became vested in the subsequent owner after 1971, the latter shall add to the cost to him of the capital property, as determined under section 68, the amount by which the aggregate of amounts referred to in paragraph *a*, *b*, *c* or *c*.1 of section 70 exceeds the aggregate of those referred to in paragraph *d* or *e* of the said section or, if they are less, he shall deduct the difference thereof.

For the purposes of this section, an amalgamation, within the meaning of section 544 of the Taxation Act (chapter I-3), is deemed to be a transaction between persons not dealing at arm's length.

1972, c. 24, s. 72; 1973, c. 17, s. 151; 1975, c. 22, s. 272; 1978, c. 26, s. 223.

70. The amounts which must be added to the cost of capital property or be deducted therefrom under paragraph *c* of the first paragraph of section 69 are the following:

(a) capital gain from the disposition after 1971 of capital property by a person to whom it belonged before it devolved to the subsequent owner, with the exception of an amount which is deemed such a gain under section 261 of the Taxation Act (chapter I-3);

(b) an amount of which section 255 of the said Act requires the inclusion in the computation of the adjusted cost base of the capital property for the person described in paragraph *a*;

(c) the portion of the excess added in computing the cost of the capital property by virtue of section 559 of the said Act, as determined in conformity with section 560 of the said Act by the subsequent owner or the person described in paragraph *a*;

(c.1) an amount that the person described in paragraph *a* has subtracted, under sections 271 and 273 of the Taxation Act, from his gain otherwise determined;

(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*;

(e) an amount of which section 257 of the said Act requires the deduction in computing the adjusted cost base of the capital property for the person described in paragraph *a*.

1973, c. 17, s. 152; 1975, c. 22, s. 273; 1978, c. 26, s. 224; 1984, c. 15, s. 247; 1996, c. 39, s. 278; 2001, c. 7, s. 173.

71. For the purposes of section 69, the disposition after 6 May 1974 of a capital property in respect of which the election contemplated in section 518 or 529 of the Taxation Act (chapter I-3) was made is deemed to be a transaction between persons not dealing at arm's length.

1975, c. 22, s. 274.

72. Except in the case of section 69, an individual may elect that the cost of all capital property contemplated in section 68, with the exception of property described in subparagraphs *a* to *e* of the second paragraph, is deemed to be the fair market value on valuation day.

Such election applies only to capital property that he owns on 31 December 1971 and only if it is made in the prescribed form not later than the day on which he must file a fiscal return under Part I of the Taxation Act (chapter I-3) for his first taxation year in which he disposes of all or part of such capital property, with the exception:

(a) of personal-use property other than precious property or an immovable;

(b) of precious property whose disposition results in no gain or loss on account of section 289 or 290 of the Taxation Act;

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(c) of his principal residence whose disposition results in no gain on account of section 271 of the said Act;

(d) of personal-use property which is immovable property other than his principal residence and whose disposition results in no gain on account of section 289 or 290 of the said Act; or

(e) of any other property the proceeds of disposition of which are equal to its fair market value on valuation day.

1972, c. 24, s. 73; 1973, c. 17, s. 153; 1973, c. 18, s. 39; 1975, c. 22, s. 275.

73. In computing, at any particular time after 1971, the adjusted cost base of any capital property contemplated in section 68 that was owned by the taxpayer on 31 December 1971 and thereafter without interruption until that time, if the property was one of a group of identical properties owned by him on that date the following rules apply:

(a) section 259 of the Taxation Act (chapter I-3) does not apply;

(b) where the property is an obligation, for the purpose of paragraphs *a* and *b* of section 68, its amortized cost to the taxpayer on 1 January 1972 and its fair market value on valuation day are deemed respectively that proportion of the aggregate of the amortized costs to him at that date or of the fair market value on that day of all obligations of that group that the principal amount of the obligation is of the principal amount of all the obligations of that group;

(c) where the property is not an obligation, for the purposes of paragraphs *a* and *b* of section 68, the actual cost or the fair market value to the taxpayer of the capital property is deemed the quotient obtained when the aggregate of the actual costs to him or the fair market value, as the case may be, of all capital properties of that group is divided by the number of capital properties of that group; and

(d) for the purpose of distinguishing any such capital property from an otherwise identical property acquired and disposed of by the taxpayer before 1 January 1972, he is deemed to have disposed of the properties he acquired at a particular time before acquiring another property after that time; likewise, for the purpose of distinguishing it from an otherwise identical property, except an indexed security, acquired by the taxpayer after 31 December 1971, he is deemed to have first disposed of properties owned by him on 31 December 1971 before acquiring it.

1972, c. 24, s. 74; 1975, c. 22, s. 276; 1986, c. 19, s. 209.

74. For the purposes of section 73, any property of a life insurer that would otherwise be identical to any other such property is deemed not to be identical to it unless the conditions provided for in section 836 of the Taxation Act (chapter I-3) are met.

1975, c. 22, s. 277.

75. Where a corporation resident in Canada receives, after 1971, a stock dividend in respect of a share of the capital stock of a foreign affiliate of that corporation owned between 18 June 1971 and 31 December 1971 by the corporation or a corporation with which it was not dealing at arm’s length and the share received as a stock dividend is identical to the share in respect of which the stock dividend is received, the share so received is, at the option of the corporation, deemed to be, for the purposes of sections 69 and 70, capital property owned by it on 18 June 1971 and, for the purposes of paragraph *c* of section 68, section 73 and this section, capital property owned by it on 18 June 1971 and on 31 December 1971, and not to be property acquired by the corporation after 1971 for the purposes of paragraph *d* of section 73.

1977, c. 26, s. 118; 1980, c. 13, s. 120.

75.1. Where a corporation resident in Canada receives, after 1971, a stock dividend in respect of a share of the capital stock of a foreign affiliate of the corporation owned by the corporation on 31 December 1971 and acquired by it after 18 June 1971 from a person with whom it was dealing at arm’s length and the share

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received as a stock dividend is identical to the share in respect of which the stock dividend is received, the share so received is, at the option of the corporation, deemed to be, for the purposes of paragraph *c* of section 68, section 73 and this section, capital property owned by it on 31 December 1971, and deemed not to be property acquired by the corporation after 1971 for the purposes of paragraph *d* of section 73.

1980, c. 13, s. 120.

75.2. For the purposes of sections 75 and 75.1, the first paragraph of section 549 of the Taxation Act (chapter I-3) applies where an amalgamation within the meaning of section 544 of the said Act has occurred.

1980, c. 13, s. 120.

DIVISION III

COMPUTATION OF THE ADJUSTED COST BASE OF AN INTEREST IN A PARTNERSHIP

76. For the purpose of computing, at any particular time after 1971, the adjusted cost base to a taxpayer of an interest in a partnership of which he was a member on 31 December 1971 and thereafter without interruption until that time, the cost to him of the interest shall be deemed to be the amount that is neither the greatest nor the least of the following three amounts, namely:

(a) the actual cost of the interest to the taxpayer at that time;

(b) the amount determined under section 77 at that time; and

(c) the amount by which the aggregate of the fair market value of the interest at that time and the amounts required by section 257 of the Taxation Act (chapter I-3) to be deducted in computing the adjusted cost base to the taxpayer immediately before the particular time exceeds the aggregate of the amounts required by section 255 of the said Act to be included in that computation at the same time.

However, if two or more of the amounts determined under paragraphs *a* to *c* are the same, that amount is deemed to be the cost of that interest to the taxpayer.

1972, c. 24, s. 75.

77. The amount contemplated in paragraph *b* of section 76 in respect of a taxpayer at a particular time is the amount by which the aggregate computed under section 78 is exceeded by:

(a) his share, determined at the commencement of the first fiscal period of the partnership ending after 1971, of the tax equity of the partnership at that time;

(b) such part of any contribution of capital made by the taxpayer to the partnership, otherwise than by way of loan, before 1972 and after the commencement of the partnership's first fiscal period ending after 1971, as cannot reasonably be regarded as a gift made to, or for the benefit of, any other member of the partnership related to the taxpayer; and

(c) the amount of any consideration that became payable by the taxpayer after 1971 to any other person to acquire, after 1971, any right in respect of the partnership, the sole purpose of the acquisition of which was to increase his interest in the partnership.

1972, c. 24, s. 76.

78. The aggregate of the amounts contemplated in section 77 that is to be computed under this section is the aggregate of:

(a) all amounts received by the taxpayer before 1972 and after the commencement of the partnership's first fiscal period ending after 1971 according to his share of the partnership profits or partnership capital; and

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(b) all amounts attributable to the disposition by the taxpayer after 1971 and before the time contemplated in section 77 of a part of his interest in the partnership, equal to such portion of the adjusted cost base to him of the interest immediately before the disposition as may reasonably be regarded as attributable to the part of the interest so disposed of.

1972, c. 24, s. 77.

79. Where a taxpayer has, before 1972 and after the commencement of the first fiscal period of a partnership ending after 1971, acquired an interest in the partnership from another person, sections 77 and 78 are applicable as if, for the purposes of paragraphs *a* and *b* of section 77 and paragraph *a* of section 78, the taxpayer had in respect of the interest, throughout the period commencing at the commencement of that fiscal period and ending at the time he acquired the interest, the same position in relation to the partnership as that which he would have had in relation thereto if, throughout that period, he had been the owner of the interest.

1972, c. 24, s. 78.

80. For the purpose of computing, at any particular time after 1971, the adjusted cost base to a taxpayer of an interest in a partnership of which he was a member on 31 December 1971 and thereafter without interruption until that time, section 257 of the Taxation Act (chapter I-3) is deemed to require the deduction of the lesser of:

(a) the amount by which all amounts determined under paragraph *a* of section 78 exceed the aggregate of the amounts determined under paragraphs *a* and *b* of section 77, and

(b) the amount by which all the amounts determined as of that time in respect of that interest under section 83 exceed the aggregate of those determined under section 82.

1972, c. 24, s. 79.

81. For the purpose of computing, at any particular time after 1971, the adjusted cost base to a taxpayer of an interest in a partnership of which the taxpayer was a member on 31 December 1971 and thereafter without interruption until that particular time, subparagraph i of paragraph *i* of section 255 of the Taxation Act (chapter I-3) shall be read with “mines,” replaced by “mines, and the provisions of the Act respecting the application of the Taxation Act (chapter I-4) in respect of sections 105 to 110.1,”.

In addition, for that purpose, subparagraph i of paragraph *l* of section 257 of the Taxation Act shall be read with the figure “741” replaced by “741, and the provisions of the Act respecting the application of the Taxation Act (chapter I-4) that regard sections 105 to 110.1,”.

1972, c. 24, s. 80; 1978, c. 26, s. 225; 1984, c. 15, s. 248; 1985, c. 25, s. 165; 1998, c. 16, s. 255.

82. For the purposes of this chapter, the actual cost of an interest to a taxpayer, at any particular time after 1971, in a partnership of which he was a member on 31 December 1971 and thereafter without interruption until that time, is the excess over the aggregate mentioned in section 83, of the aggregate of the following amounts:

(a) the cost of that interest at that time, computed without regard to the provisions of this chapter;

(b) all amounts in relation to any fiscal period of the partnership ending before 1972, equal to the aggregate:

i. of that which would have been the income of the taxpayer from the partnership for his taxation year during which the fiscal period of the partnership ends, if the former Corporation Tax Act had applied without regard to section 10 of the said Act, and

ii. of the share of the taxpayer, at the end of that fiscal period, in all the profits of the partnership from the disposition during that fiscal period of capital property, to the extent that such profits were not included in computing the income or loss from the partnership for any of its members;

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(c) where the taxpayer has made a contribution of capital to the partnership before 1972 otherwise than by way of loan, the portion of such contribution that cannot reasonably be regarded as a gift made for the benefit of any other member of the partnership related to him; and

(d) where, through the partnership, the taxpayer has practiced a profession, the amount to which his accounts receivable, within the meaning of section 45, would have increased in this regard if, before 1972, he had carried on no business otherwise than by means of that partnership.

1972, c. 24, s. 81.

83. The aggregate that must be deducted from the total of the amounts contemplated in section 82 is the aggregate of:

(a) all the amounts relating to the disposition of a share of the taxpayer's interest in a partnership, equal to the part of the actual cost to him of his interest, if the disposition occurred before 1972, or, in other cases, equal to that part of his adjusted cost base of such interest immediately before the disposition, which may reasonably be attributed to the share so disposed of;

(b) all the amounts relating to the fiscal period of the partnership ending before 1972, equal to the aggregate of:

i. what would have been the loss of the taxpayer from the partnership for his taxation year in which the fiscal period of the partnership ends, if the former Corporation Tax Act has applied without regard to section 10 of the said Act;

ii. the taxpayer's share at the end of that fiscal period, of the losses of the partnership from the disposition of a capital property during that fiscal period, to the extent that those losses have not been included in computing the loss or income from the partnership for one of its members; and

iii. the taxpayer's share, at the end of that fiscal period, in the exploration and drilling expenses, including the general geological and geophysical expenses incurred by the partnership while he was a member of it, in respect of exploring or drilling for petroleum or natural gas in Canada, if those expenses were incurred during such fiscal period to the extent prescribed by regulation; and

(c) all the amounts received by the taxpayer before 1972 according to his share of the capital or income of the partnership.

1972, c. 24, s. 82; 1973, c. 18, s. 40; 1974, c. 18, s. 54.

84. The fiscal equity of a partnership, at a particular time, is the excess over the aggregate contemplated in section 85 of the aggregate of the following amounts

(a) the amount of any money of the partnership on hand at the commencement of its first fiscal period ending after 1971;

(b) the cost amount to it, at the commencement of that fiscal period, of any partnership property other than capital property or an incorporeal capital amount;

(c) an amount in respect of any property other than depreciable property that was, at the commencement of that fiscal period, capital property of the partnership equal to:

i. the proceeds of disposition of that property, if there was a disposition before 1972;

ii. the cost of the property to the partnership, as determined in this chapter for the purpose of computing the adjusted cost base of the property immediately before its disposition, if there was a disposition after 1971 and before the particular time; and

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iii. in other cases, the cost of the property to the partnership, as determined in this chapter for the purpose of computing the adjusted cost base of the property immediately before the particular time;

(d) an amount in respect of any prescribed class of depreciable property of the partnership equal to the excess of the undepreciated capital cost of the property of that class on 1 January 1972 over the capital cost of the property of that class acquired by the partnership after the commencement of that fiscal period and before 1972;

(e) an amount in respect of any other depreciable property of the partnership at the commencement of that fiscal year, equal to the amount by which the actual cost of the property to the partnership or the amount at which the partnership is deemed to have acquired it under the former Tax Act respecting individuals or the former Corporation Tax Act as they applied to the 1971 taxation year exceeds the aggregate of the amounts allowed as deductions in respect of the cost of such property under section 13 of the former Tax Act respecting individuals or section 12 of the former Corporation Tax Act as they applied in computing the partners' income from the partnership for the taxation years ending before 1972;

(f) an amount in respect of any property that was depreciable property of the partnership at the commencement of that fiscal period equal to:

i. where the property was disposed of before 1972, the excess of the proceeds of disposition over the amount by which the lesser of the proceeds of disposition and the capital cost exceeds, in the case of depreciable property of a prescribed class, the undepreciated capital cost of all the property of that class at the time of disposition, or, in the case of any other depreciable property, the amount that would be determined under paragraph *e* if the words "at the commencement of that fiscal year" were replaced by the words "at the time of the disposition";

ii. the excess of the lesser of the proceeds of its disposition and of its fair market value on valuation day over its capital cost to the partnership, if the disposition occurred after 1971 and before the particular time; and

iii. in other cases, the excess of the lesser of its fair market value on valuation day and that at the particular time over its capital cost to the partnership; or

(g) an amount in respect of a business carried on by the partnership in the 1971 fiscal year and thereafter without interruption until the particular time, equal to the amount, if the partnership disposed of such business at the particular time at its fair market value at that time, by which the amount of incorporeal capital property in respect of the business, computed without taking account of section 36, which would become receivable by the partnership, exceeds the amount which would be deemed to have become receivable under the said section.

1972, c. 24, s. 83; 1973, c. 17, s. 154; 1974, c. 18, s. 55; 1975, c. 22, s. 278; 2005, c. 1, s. 301.

85. For the purposes of section 84:

(a) the aggregate contemplated therein is that of the debts owing by the partnerships or of any obligation for it to pay an amount, if they are outstanding at the commencement of the first fiscal period of the partnerships ending after 1971, less the part of such debts and obligations that would have been deductible in computing his income for that fiscal period if they had been discharged during such fiscal period;

(b) "incorporeal capital amount" means any property of a taxpayer the disposition of which after 1971 would produce an amount that would constitute an incorporeal capital amount within the meaning of sections 105 to 110.1 of the Taxation Act (chapter I-3).

1972, c. 24, s. 84; 1973, c. 17, s. 155; 1978, c. 26, s. 226; 2005, c. 1, s. 302.

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DIVISION IV

AMALGAMATIONS, EXCHANGES AND REORGANIZATIONS

86. Where, after 6 May 1974, there has been an amalgamation within the meaning of section 544 of the Taxation Act (chapter I-3) and a taxpayer who, on 31 December 1971 and thereafter without interruption until immediately before the amalgamation, owned a property, in this section referred to as the "old property", that was a share of the capital stock of a predecessor corporation, an option to acquire such a share, or a bond, debenture, hypothecary claim, mortgage, note or other similar obligation of such corporation, has received as sole consideration for the disposition of such property on the amalgamation, property of the new corporation, in this section referred to as the "new property" which is, respectively, as the case may be, a share of the capital stock of the new corporation, an option to acquire such a share, or a bond, debenture, hypothecary claim, mortgage, note or other similar obligation of the new corporation, the following rules apply, notwithstanding any other provision of this Act or of the Taxation Act, for the purpose of determining the cost to the taxpayer and the adjusted cost base to the taxpayer of the new property:

(a) the old property is deemed not to have been disposed of by virtue of the amalgamation but to have been instead altered by virtue thereof and to have continued in existence in the form of the new property;

(b) the new property is deemed not to have been acquired by reason of the amalgamation but to have been in existence prior thereto in the form of the old property that was altered by virtue of the amalgamation.

1973, c. 18, s. 41; 1975, c. 22, s. 279; 1996, c. 39, s. 279; 2005, c. 1, s. 303.

87. The rules provided in section 86 also apply when, pursuant to an exchange or a reorganization to which sections 301, 301.3, 536 to 539 or 541 to 543.1 of the Taxation Act (chapter I-3) apply, a taxpayer acquires a property referred to in the said sections in consideration of a property he owned on 31 December 1971 and thereafter without interruption until the time immediately preceding the exchange or reorganization and if, in the case of a reorganization to which sections 541 to 543.1 apply, the cost, to the taxpayer, of the property so acquired is determined otherwise than under section 543.1.

1973, c. 18, s. 41; 1975, c. 22, s. 279; 1982, c. 5, s. 208; 2001, c. 7, s. 174.

88. Section 86 does not apply if the taxpayer itself is a predecessor corporation and applies, in respect of shares, only when the taxpayer receives, in consideration of shares of a class of the capital stock of a predecessor corporation that it owns, only shares of one class of the capital stock of the new corporation whose cost to the taxpayer is determined otherwise than under paragraph *c* of section 553.1 of the Taxation Act (chapter I-3).

1973, c. 18, s. 41; 1975, c. 22, s. 279; 1982, c. 5, s. 208.

88.1. For the purposes of sections 86 and 87, where a taxpayer has acquired a particular property in circumstances to which any of sections 69, 86 and 87 applied and subsequently acquires, in consideration for the disposition of the particular property, another property in circumstances to which either of sections 86 and 87 would have applied if the taxpayer had owned the particular property on 31 December 1971 and thereafter without interruption until the time of the subsequent acquisition, the taxpayer is deemed, in respect of that subsequent acquisition, to have owned the particular property on 31 December 1971 and thereafter without interruption until the time of the subsequent acquisition.

1993, c. 16, s. 356.

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DIVISION V

PROPERTY DEEMED DISPOSED OF ON 22 FEBRUARY 1994

1996, c. 39, s. 280.

88.2. Where section 726.9.2 of the Taxation Act (chapter I-3) applies to a particular property, for the purposes of determining the cost and the adjusted cost base to a taxpayer of any property at any time after 22 February 1994, the particular property is deemed not to have been owned by any taxpayer on 31 December 1971.

1996, c. 39, s. 280.

CHAPTER VII.1

EXPLORATION AND DEVELOPMENT EXPENSES

1998, c. 16, s. 256.

88.3. This chapter applies to persons who carry on one of the following activities:

(a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;

(b) mining or exploring operations;

(c) processing mineral ores for the purpose of recovering metals therefrom;

(d) a combination of processing mineral ores for the purpose of recovering metals therefrom, and processing metals recovered from the ores so processed;

(e) refining metals; or

(f) operating a pipeline for the transmission of oil or natural gas.

1998, c. 16, s. 256.

88.4. Any person who carries on or has carried on any of the activities referred to in section 88.3 may, in computing the person's income for a taxation year, deduct in respect of the exploration or development expenses referred to in section 88.5 incurred in Canada before 1 January 1972 by the person and in respect of which the person is entitled to a deduction for that taxation year under section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) and subsection 4 of section 34 of those Rules, an amount equal to the amount that is deductible, in respect of those expenses, in computing the person's income for the taxation year under that section 29 and that subsection 4.

Expenses referred to in the first paragraph that are deemed, under subsections 14 and 21 of section 29 of the Income Tax Application Rules, to be expenses incurred by a person at a particular time after 31 December 1971 for the purposes of sections 66, 66.1 and 66.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), are deemed to be such expenses incurred by that person at that time for the purposes of sections 362 to 418.1 of the Taxation Act (chapter I-3).

1998, c. 16, s. 256.

88.5. Expenses referred to in section 88.4 are

(a) drilling and exploration expenses, including all general geological and geophysical expenses, incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada;

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(b) prospecting, exploration and development expenses incurred in searching for minerals in Canada.

1998, c. 16, s. 256.

88.6. Any amount received by a corporation whose principal business consists of any of the activities referred to in section 88.3 as consideration for the disposition, after 10 April 1962 and before 23 October 1968, of a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, shall be included in computing the income of the corporation for the fiscal period in which the amount was received, unless the corporation acquired the right, licence or privilege by legacy or inheritance, or before 11 April 1962 where, in the last case, the corporation disposed of the right, licence or privilege before 9 November 1962.

The first paragraph also applies to an amount received by a corporation other than the corporation referred to in that paragraph if, at the time of acquisition of the right, licence or privilege, the corporation was a corporation referred to in that paragraph, or by an association, partnership or syndicate formed to explore or drill for petroleum or natural gas.

1998, c. 16, s. 256.

88.7. Where a right, licence or privilege referred to in the first paragraph of section 88.6 and acquired by an individual or a corporation after 10 April 1962 and before 1 January 1972 was disposed of before 23 October 1968, any amount received by the individual or the corporation as consideration for the disposition shall be included in computing the income of the individual or corporation for the taxation year in which the amount was received, unless the individual or the corporation acquired such right, licence or privilege by legacy or inheritance.

The first paragraph does not apply to a corporation that, at the time of the acquisition referred to therein, is a corporation whose principal business consists of any of the activities referred to in section 88.3, or in computing the income for a taxation year of a taxpayer whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal.

1998, c. 16, s. 256.

88.8. Sections 88.6 and 88.7 do not apply to any disposition by a corporation, partnership, association, syndicate or individual, in this section referred to as “the vendor”, of any right, licence or privilege unless the right, licence or privilege was acquired by the vendor under an agreement, contract or arrangement under which there was not acquired any other right to, over or in respect of the land in respect of which such right, licence or privilege was so acquired, except the right to explore for, drill for or take materials and substances, whether liquid or solid and whether hydrocarbons or not, produced in association with the petroleum, natural gas or other related hydrocarbons, except coal, or found in any water contained in an oil or gas reservoir, or to enter on, use and occupy as much of the land as is necessary for the purpose of exploiting the right, licence or privilege.

1998, c. 16, s. 256.

88.9. For the purposes of sections 88.6 and 88.7, the following rules apply

(a) where an association, partnership or syndicate described in the second paragraph of section 88.6, a corporation or an individual disposes of any interest in land that includes a right, licence or privilege described in the first paragraph of section 88.6 that was acquired under an agreement, contract or arrangement described in section 88.8, the proceeds of disposition of the interest are deemed to be proceeds of disposition of the right, licence or privilege; and

(b) where an association, partnership or syndicate described in the second paragraph of section 88.6, a corporation or an individual acquires a right, licence or privilege described in the first paragraph of section 88.6 under an agreement, contract or arrangement described in section 88.8 and subsequently disposes of any

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interest in the right, licence or privilege or in the production of a well situated on the land to which the right, licence or privilege relates, the proceeds of disposition of the interest are deemed to be the proceeds of disposition of the right, licence or privilege.

1998, c. 16, s. 256.

88.10. For the purposes of this chapter, expenses incurred by a corporation, association, partnership or syndicate pursuant to an agreement under which those expenses are incurred in consideration for shares of the capital stock of a corporation that owned or controlled the mining rights, an option to purchase shares of the capital stock of a corporation that owned or controlled the mining rights, or a right to purchase shares in the capital stock of a corporation that was to be formed for the purpose of acquiring or controlling the mining rights are deemed not to be and never to have been expenses incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada or in searching for minerals in Canada.

1998, c. 16, s. 256.

CHAPTER VIII

RULES RESPECTING THE COMPUTATION OF INCOME

88.11. In its application to an outlay or expenditure made or incurred before 1 January 1972, section 420 of the Taxation Act (chapter I-3) shall be read with the words “An amount the deduction of which is authorized by this Part in respect of” replaced by the words “For the purposes of this Part,”.

1998, c. 16, s. 257.

89. The presumption of acquisition at fair market value set out in paragraph *b* of section 422 of the Taxation Act (chapter I-3) does not apply to a taxpayer who has acquired property before 1972 unless he has acquired it in circumstances such that if sections 21 of the former Income Tax Act, 11*a* of the former Corporation Tax Act and 4 of the former Logging Tax Act continued to apply, this fair market value would be deemed paid or payable for purposes of computing income of a taxpayer from a business.

Moreover, the presumption of disposition at fair market value set out in paragraph *c* of section 422 of the Taxation Act does not apply to a taxpayer who has disposed of property before 1972.

The presumption set out in paragraph *a* of the said section applies to any acquisition of property by a taxpayer whenever it occurred, before or after the end of 1971.

1972, c. 24, s. 100.

89.1. An individual who receives, after 31 December 1971, a refund of premiums, within the meaning of the first paragraph of section 908 of the Taxation Act (chapter I-3), under a registered retirement savings plan the annuitant of which died before 1 January 1972, shall not include the refund, under section 929 of that Act, in computing the individual’s income for the taxation year in which the individual received it where the individual so elects in prescribed form and within the prescribed time and pays to the Minister to that effect tax under Part I of that Act equal to 9% of that amount.

1998, c. 16, s. 258.

CHAPTER VIII.1

ELECTION OF THE TAXPAYER

1998, c. 16, s. 258.

89.2. A taxpayer who, in a taxation year ending after 31 December 1973, receives a payment described in subparagraph i or iv of paragraph *a* of section 345 of the Taxation Act (chapter I-3) in respect of which the taxpayer would be entitled to invoke section 44 of the former Tax Act respecting individuals if that Act and

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the provisions to which that section refers were still in force, may elect to compute the taxpayer's tax payable for the taxation year concerned by applying, with the necessary modifications, the method provided for in that section 44, but only up to the amount of the part of the payment that corresponds to the amount the taxpayer would have received under the retirement plan or deferred profit sharing plan if the taxpayer had withdrawn from the plan on 1 January 1972 and if there had been no change in the terms and conditions of the plan after 18 June 1971 and before 2 January 1972.

Where any tax is payable under the first paragraph in addition to or in lieu of any amount of tax payable under Part I of the Taxation Act for a taxation year, the tax payable under that paragraph is deemed to be payable under Part I of the Taxation Act for the taxation year.

1998, c. 16, s. 258.

CHAPTER IX

CORPORATIONS AND SHAREHOLDERS

90. For the purpose of Title X of Book III of Part I of the Taxation Act (chapter I-3), a corporation which was on 1 January 1972 a foreign affiliate of a taxpayer is deemed to have become a foreign affiliate on that date.

1972, c. 24, s. 105.

91. *(Repealed).*

1975, c. 22, s. 284; 1986, c. 19, s. 210.

92. A corporation that at any time before 7 May 1974 was deemed to be a foreign affiliate of a taxpayer pursuant to an election made in accordance with paragraph *d* of section 442 of the Taxation Act (1972, chapter 23) before that section was replaced by section 149 of chapter 22 of the statutes of 1975 is deemed to have been a foreign affiliate of the taxpayer at that time.

1977, c. 26 s. 119.

93. In computing the income of a taxpayer for his 1972 taxation year or any subsequent year, section 688 of the Taxation Act (chapter I-3) does not apply in respect of a property of a trust if it distributes such property to the taxpayer before the commencement of his 1972 taxation year.

1972, c. 24, s. 106.

93.1. A specified personal corporation's capital dividend account at any time after its taxation year 1972, means an amount equal to the amount computed as such in respect of the corporation at that time under subsection 9 of section 57 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement).

For the purposes of the first paragraph, a corporation is a specified personal corporation if its taxation year 1972 was in part before and in part after 1 January 1972 and if during the whole of the period beginning on the earlier of 18 June 1971 and the beginning of its taxation year 1972 and ending at the end of its taxation year 1972, it retained the status of a personal corporation within the meaning assigned to "personal corporation" by section 97 of the former Tax Act respecting individuals.

1998, c. 16, s. 259.

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CHAPTER X

SAVINGS AND CREDIT UNIONS

94. This chapter applies for the purposes of computing for the 1972 and following taxation years, income of a savings and credit union, hereinafter called a “credit union”.

1972, c. 24, s. 141 (*part*).

95. Investments in the form of bonds, debentures, hypothecary claims, mortgages or agreements of sale held by the credit union at the commencement of its 1972 taxation year must be valued at their actual cost to the credit union plus a reasonable amount for the amortization of the excess of the principal of such investments over their actual cost to the credit union at the time of acquisition or, as the case may be, less a reasonable amount for the amortization of the excess of the actual cost of them to the credit union at the acquisition over the principal at that time.

1972, c. 24, s. 142; 1996, c. 39, s. 281; 2005, c. 1, s. 304.

96. The debts owed to the credit union at the commencement of its 1972 taxation year except those mentioned in section 95 and those which have become bad before that taxation year must be valued at a particular time at the amount outstanding at that time.

1972, c. 24, s. 143.

97. Any depreciable property which is not a leasehold interest, acquired by the credit union in a taxation year ending before 1972, is deemed to have been acquired by it on the last day of its 1971 taxation year at a capital cost equal to the excess of the depreciable cost of that property to it over the presumed depreciation of the property as determined in sections 98 and 99.

1972, c. 24, s. 144; 1975, c. 22, s. 286.

98. In the case of a building or motor vehicle and in the case of any other property acquired by the credit union after 1961 the presumed depreciation contemplated in section 97 is equal to the amount obtained when the product of the depreciable cost of the property by the number of full taxation years included in the period beginning on the first day of the taxation year following the year in which the property was acquired and ending on the last day of its 1971 taxation year, is multiplied by 2 1/2% in the case of a building, 15% in the case of a motor vehicle and in the case of another property by one-half the percentage prescribed for the class which the property forms part of by regulation made under section 12 of the former Corporation Tax Act.

However when the capital cost to the credit union of an improvement of or addition to a building exceeds $10,000 the improvement or addition is deemed to be a separate building acquired by the credit union.

1972, c. 24, s. 145; 1975, c. 22, s. 287.

99. In the case of a leasehold interest the presumed depreciation contemplated in section 97 is equal to the part of the capital cost of such interest computed without regard to this section, that the number of months expired since the acquisition of that interest until the first day in the 1972 taxation year of the credit union is of the total number of months included between such acquisition and the time when the lease ends.

1972, c. 24, s. 146.

100. For the purposes of section 98, the depreciable cost of property to a credit union is its actual cost or the amount at which it is deemed to have acquired it under section 99 of the Taxation Act (chapter I-3).

1972, c. 24, s. 147; 1973, c. 17, s. 161.

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101. The undepreciated portion of the capital cost, to a credit union, on the first day of its 1972 taxation year, of depreciable property of a prescribed class acquired by it before that year is equal to the aggregate of the capital costs of the properties of that class as determined under sections 97 to 99 for the same day.

1972, c. 24, s. 148.

102. For the purposes of computing capital gain from the disposition of a depreciable property acquired by a credit union in a taxation year ending before 1972, the capital cost of the property to the credit union is determined without reference to sections 97 to 99.

1975, c. 22, s. 288.

103. *(Repealed).*

1972, c. 24, s. 153; 1986, c. 19, s. 210.

CHAPTER XI

FINAL PROVISIONS

104. The Government may, by regulation, generally prescribe any measure that is necessary or expedient for the purposes of this Act.

The regulations made under this section and those made under other provisions of this Act may, if they so provide, apply to a period prior to their publication, but not prior to the taxation year 1972.

1972, c. 24, s. 155; 1974, c. 18, s. 56; 1998, c. 16, s. 260.

105. The Minister of Revenue shall have charge of the application of this Act.

1974, c. 18, s. 57.

The Minister of Finance exercises the functions of the Minister of Revenue provided for in this Act. Order in Council 1689-2022 dated 26 October 2022, (2022) 154 G.O. 2 (French), 6581.

106. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

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REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 24 of the statutes of 1972, in force on 31 December 1977, is repealed, except sections 6 to 8, 11 to 13, 15, 18, 19, 29, 56, 57, 85 to 91, 93, 93*a*, 94 to 99, 101 to 103, 103*a*, 103*c*, 103*d*, 104, 107, 107*a*, 108 to 140, 140*a*, 141 (*part*), 149 to 152, 154, 154*a*, 154*b* and 156, effective from the coming into force of chapter I-4 of the Revised Statutes.

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