

**CONSOLIDATION OF INCOME TAX ACT**  
R.S.N.W.T. 1988,c.I-1

*(Current to: December 20, 2007)*

**AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

- R.S.N.W.T. 1988,c.19(Supp.)
- R.S.N.W.T. 1988,c.58(Supp.)
  - In force January 1, 1990
- R.S.N.W.T. 1988,c.87(Supp.)
  - In force July 1, 1991, except s.4
  - s.4 in force January 1, 1990
- R.S.N.W.T. 1988,c.118(Supp.)
  - In force June 24, 1990
- S.N.W.T. 1991-92,c.37
  - In force January 1, 1993
- S.N.W.T. 1993,c.9
  - In force January 1, 1993
- S.N.W.T. 1994,c.11
  - In force January 1, 1994
- S.N.W.T. 1995,c.4
  - s.3(2) in force January 1, 1987
  - s.15(2) in force January 1, 1990
- S.N.W.T. 1996,c.11
  - In force January 1, 1996
- S.N.W.T. 1998,c.3
  - In force January 1, 1997 (deemed)
- S.N.W.T. 1998,c.12
  - In force July 1, 1998
- S.N.W.T. 1998,c.18
  - In force September 25, 1998: SI-003-99
- S.N.W.T. 1999,c.11
  - In force September 25, 1998 (deemed)

**AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:**

- S.N.W.T. 1999,c.9
  - In force April 1, 1999

(See following page for Nunavut list of amending statutes)

**AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2001,c.14

In force January 1, 2001 (deemed)

S.Nu. 2002,c.17,s.273

s.273 in force September 8, 2003: SI-005-2003

S.Nu. 2002,c.24

In force January 1, 2002 (deemed)

S.Nu. 2003,c.19

In force November 5, 2003

S.Nu. 2006,c.19

In force December 5, 2006

S.Nu. 2007,c.2

In force March 29, 2007

S.Nu. 2007,c.3,s.37

s.37 in force March 29, 2007

S.Nu. 2007,c.11

In force on November 8, 2007, except s.2,3(1),4,5

s.3(1),4 in force January 1, 2004 (deemed)

s.2 in force January 1, 2005 (deemed)

s.5 in force January 1, 2006 (deemed)

**Note: Each amending Act should be reviewed to determine the application of its amendments to various taxation years.**

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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**INCOME TAX ACT****INTERPRETATION**

## Definitions

1. (1) In this Act,

"agreeing province" means a province that has entered into an agreement with the Government of Canada under which the Government of Canada will collect taxes payable under that province's income tax statute and will make payments to that province in respect of the taxes so collected; (*province participante*)

"collection agreement" means the agreement entered into pursuant to subsection 57(1); (*accord de perception*)

"Commissioner" means the Commissioner of Nunavut or, where a collection agreement is entered into, means

- (a) in relation to the remittance of any amount as or on account of tax payable under this Act, the Receiver General for Canada,
- (b) in relation to the remission under section 32.1 of any amount as or on account of tax, interest or penalty paid under this Act, the Minister, and
- (c) in relation to the administration and enforcement of this Act, other than sections 57 and 61, the Minister; (*commissaire*)

"deputy head" means

- (a) the Deputy Minister of the Department of Finance, or
- (b) where a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation; (*administrateur général*)

"federal Act" means the *Income Tax Act* (Canada); (*loi fédérale*)

"federal regulations" means the regulations made pursuant to the federal Act, as amended from time to time; (*règlement fédéral*)

"federal rules" means the *Income Tax Application Rules* (Canada); (*règles fédérales*)

"income tax statute" means, with reference to an agreeing province, the law of that province that imposes a tax similar to the tax imposed under this Act; (*loi de l'impôt sur le revenu*)

"individual" means a person other than a corporation and includes a trust or estate as defined in subsection 104(1) of the federal Act; (*particulier*)

"loss" means a loss as determined in accordance with and for the purposes of the federal Act; (*perte*)

"Minister" means the Minister of National Revenue for Canada, but in any provision of the federal Act that is incorporated by reference in this Act, unless a collection agreement has been entered into, a reference to the Minister shall be read and construed for the purposes of this Act as a reference to the Commissioner; (*ministre*)

"permanent establishment" has the same meaning as in the federal regulations; (*établissement stable*)

"province" means a province of Canada, Nunavut, the Yukon Territory, or the Northwest Territories; (*province*)

"Receiver General for Canada" means the Receiver General for Canada but in any provision of the federal Act that is incorporated by reference in this Act, unless a collection agreement has been entered into, a reference to the Receiver General for Canada shall be read and construed for the purposes of this Act as a reference to the Commissioner; (*receveur général du Canada*)

"regulation" means a regulation made by the Commissioner under this Act; (*règlement*)

"taxation year" has the same meaning as in subsection 249(1) of the federal Act and, in the case of an estate or trust arising on death, has the same meaning as in subsection 104(23) of that Act. (*année d'imposition*)

"last day of the taxation year"

(2) The expression "last day of the taxation year" shall, in the case of an individual who resided in Canada at any time in the taxation year but ceased to reside in Canada before the last day thereof, be deemed to be a reference to the last day in the taxation year on which he or she resided in Canada.

Tax payable

(3) The tax payable by a taxpayer under this Act or under Part I of the federal Act means the tax payable by the taxpayer as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Act, or Part I of the federal Act, as the case may be.

Definitions under federal Act

(4) For the purposes of this Act, except where they are at variance with the definitions contained in this section, the definitions and interpretations contained in or made by regulation under the federal Act, apply.

Interpretation consistent with federal Act

(5) In any case of doubt, the provisions of this Act shall be applied and interpreted in a manner consistent with similar provisions of the federal Act.

### Compound interest

(6) Subsection 248(11) of the federal Act applies for the purposes of this Act to the extent that that subsection applies to subsections 161(1), (2) and (11), 164(3) to (4) and 227(8.3) and (9.2) of that Act.

**\* See S.N.W.T. 1995,c.4,s.3(5) respecting the application of amendments to this subsection.**

### Modification of federal provisions

(7) Where a provision (in this subsection referred to as "that section") of the federal Act, federal regulations or federal rules is made applicable for the purposes of this Act, that section as amended from time to time heretofore or hereafter, applies with such modification as the circumstances require for the purposes of this Act as though it had been enacted as a provision of this Act and in applying that section for the purposes of this Act, in addition to any other modifications required by the circumstances,

- (a) a reference in that section to tax under Part I of the federal Act shall be read as a reference to tax under this Act;
- (b) where that section contains a reference to tax under any of Parts I.1 to XIV of the federal Act, that section shall be read without reference therein to tax under any of those Parts and without reference to any portion of that section which applies only to or in respect of tax under any of those Parts;
- (c) a reference in that section to a particular provision of the federal Act that is the same as or similar to a provision of this Act shall be read as a reference to the provision of this Act;
- (d) any reference in that section to a particular provision of the federal Act that applies for the purposes of this Act shall be read as a reference to the particular provision as it applies for the purposes of this Act;
- (e) where that section contains a reference to any of Parts I.1 to XIV of the federal Act or to a provision in any of those Parts, that section shall be read without reference therein to that Part or without reference to that provision, as the case may be, and without reference to any portion of that section that applies only because of the application of any of those Parts or the application of a provision in any of those Parts;
- (f) where that section contains a reference to the *Bankruptcy and Insolvency Act* (Canada), that section shall be read without reference therein to the *Bankruptcy and Insolvency Act* (Canada);
- (g) a reference in that section to a federal regulation or federal rule that applies for the purposes of this Act shall be read as a reference to the regulation or rule as it applies for the purposes of this Act;
- (h) any reference in that section to a word or expression set out in the left hand column of the following table shall be read as a reference to the word or expression set out opposite thereto in the right hand column of the following table:

## Table

Canada	Nunavut
Canada Customs and Revenue Agency	Department of Finance
Commissioner of Customs and Revenue	deputy head
<i>Criminal Code</i>	<i>Summary Conviction Procedures Act</i>
Deputy Attorney General of Canada	Deputy Attorney General for Nunavut
<i>Federal Court Act</i>	<i>Judicature Act</i>
Federal Court of Canada	Nunavut Court of Justice
Her Majesty	Commissioner
Receiver General	Commissioner
Registrar of the Tax Court of Canada	Clerk of the Nunavut Court of Justice, appointed under the <i>Judicature Act</i>
Registry of the Federal Court	office of the Clerk of the Nunavut Court of Justice
Tax Court of Canada	Nunavut Court of Justice
<i>Tax Court of Canada Act</i>	<i>Judicature Act</i>

R.S.N.W.T. 1988,c.19(Supp.),s.2,3; S.N.W.T. 1995,c.4,s.3; S.N.W.T. 1998,c.3,s.2(1);  
S.Nu. 2001,c.14,s.2(1)(a),3.



## PART I

## INCOME TAX

## DIVISION A – LIABILITY FOR TAX

## Tax payable by individuals

- 2.** (1) An income tax shall be paid as hereinafter required for each taxation year by every individual
- (a) who was resident in Nunavut on the last day of the taxation year; or
  - (b) who, not being resident in Nunavut on the last day of the taxation year, had income earned in the taxation year in Nunavut as defined in section 2.1.

## Tax payable by corporations

- (2) An income tax shall be paid as hereinafter required for each taxation year by every corporation that maintained a permanent establishment in Nunavut at any time in the year. S.Nu. 2001,c.14,s.2(1)(b),4.

## DIVISION B – COMPUTATION OF TAX

## INDIVIDUAL INCOME TAX

## Subdivision a – Computation of Tax

## Definitions

- 2.1.** In this section and sections 2.11 to 2.44 and 3:

"appropriate percentage", for a taxation year, means the lowest percentage referred to in section 2.11 that is applicable in determining tax payable under this Part for the specified taxation year; (*taux de base pour l'année*)

"highest percentage", for a taxation year, means the highest percentage referred to in section 2.11 that is applicable in determining tax payable under this Part for the specified taxation year; (*taux le plus élevé*)

"income earned in the taxation year in Nunavut" means the income earned in the year in Nunavut as determined in accordance with the federal regulations made for the purposes of the definition "income earned in the year in a province" in subsection 120(4) of the federal Act; (*revenu gagné au Nunavut dans l'année d'imposition*)

"income earned in the taxation year outside Nunavut" means income for the year minus income earned in the taxation year in Nunavut; (*revenu gagné hors du Nunavut dans l'année d'imposition*)

"income for the year" means

- (a) in the case of an individual resident in Canada during only part of the taxation year in respect of whom section 114 of the federal Act applies in respect of the year or in the case of an individual not resident in Canada at any time in the taxation year, his or her income for the year as computed under subsection 120(3) of the federal Act, and
- (b) in the case of any other individual, his or her income for the year as determined in accordance with, and for the purposes of, the federal Act; (*revenu pour l'année*)

"specific percentage", for a taxation year, means 45%; (*taux spécifique*)

"tax payable under the federal Act", by an individual for a taxation year, means the amount determined under the definition "tax otherwise payable under this Part" in subsection 120(4) of the federal Act in respect of the individual for the year. (*impôt payable en vertu de la loi fédérale*)

S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.2.

Amount of tax payable for 2005 taxation year

**2.11.** (1) The tax payable under this Part for the 2005 taxation year by an individual on his or her taxable income or taxable income earned in Canada, as the case may be, referred to in this Division as the "amount taxable", is:

- (a) if the amount taxable does not exceed \$35,595, 4.0% of the amount taxable;
- (b) if the amount taxable exceeds \$35,595 and does not exceed \$71,190, \$1,424 plus 7.0% of the amount by which the amount taxable exceeds \$35,595;
- (c) if the amount taxable exceeds \$71,190 and does not exceed \$115,739, \$3,915 plus 9.0% of the amount by which the amount taxable exceeds \$71,190; or
- (d) if the amount taxable exceeds \$115,739, \$7,925 plus 11.5% of the amount by which the amount taxable exceeds \$115,739.

Amount of tax payable for 2006 and subsequent taxation years

(2) The tax payable under this Part for the 2006 and subsequent taxation years by an individual on his or her taxable income or taxable income earned in Canada, as the case may be, referred to in this Division as the "amount taxable", is:

- (a) if the amount taxable does not exceed \$36,378, 4.0% of the amount taxable;
- (b) if the amount taxable exceeds \$36,378 and does not exceed \$72,756, \$1,455 plus 7.0% of the amount by which the amount taxable exceeds \$36,378;
- (c) if the amount taxable exceeds \$72,756 and does not exceed \$118,285, \$4,002 plus 9.0% of the amount by which the amount taxable exceeds \$72,756; or

- (d) if the amount taxable exceeds \$118,285, \$8,099 plus 11.5% of the amount by which the amount taxable exceeds \$118,285.  
S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.3;  
S.Nu. 2003,c.19,s.2; S.Nu. 2007,c.11,s.2.

#### Subdivision b – Adjustments to Tax

CPP/QPP disability benefits and other lump-sum payments for previous years

**2.12.** There shall be added in computing an individual's tax payable under this Part for a taxation year the amount determined by the formula:

$$A \times B$$

where

A is the specific percentage for the year; and

B is the total of

- (i) the amount added under section 120.3 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year;
- (ii) the amount added under section 120.31 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year; and
- (iii) the amount added under section 40 of the federal rules for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year.  
S.Nu. 2001,c.14,s.5.

Definition of "relevant provision"

**2.13.** (1) In this section, "relevant provision" means subsection 2.11(2), sections 2.14 to 2.2 or 2.24.

Annual adjustment

(2) For the purpose of computing the tax payable by an individual for a taxation year, each amount expressed in dollars in a relevant provision shall be adjusted so that the amount to be used under the relevant provision for the year is the total of:

- (a) the amount that would, but for subsection (3), be the amount to be used under the relevant provision for the preceding taxation year, and
- (b) the product obtained by multiplying
  - (i) the amount referred to in paragraph (a), by
  - (ii) the amount, adjusted in the manner that may be prescribed by federal regulations and rounded to the nearest one-

thousandth, or, if the result obtained is equidistant from two consecutive one-thousandths, to the higher one-thousandth, that is determined by the formula:

$$A/B - 1$$

where

- A is the Consumer Price Index for Canada for the 12-month period that ended on September 30 next before that year, and
- B is the Consumer Price Index for Canada for the 12-month period preceding the period mentioned in the description of A.

#### Rounding

(3) If an amount to which subsection (2) applies is not a multiple of one dollar when adjusted as provided in this section, it shall be rounded to the nearest multiple of one dollar or, if it is equidistant from two such consecutive multiples, to the higher multiple.

#### Calculation of Consumer Price Index

(4) In this section, the Consumer Price Index for Canada for any 12-month period is the result arrived at by:

- (a) aggregating the Consumer Price Index for Canada, as published by Statistics Canada under the authority of the *Statistics Act* (Canada), adjusted in the manner that may be prescribed in federal regulations, for each month in that period;
- (b) dividing the aggregate obtained under paragraph (a) by 12; and
- (c) rounding the result obtained under paragraph (b) to the nearest one-thousandth or, if the result obtained is equidistant from two consecutive one-thousandths, to the higher one-thousandth.

**(5) Repealed, S.Nu. 2007,c.11,s.3(2).**

#### Calculation for 2002 taxation year

(6) For the purposes of paragraph (2)(a), the amount to be used under the relevant provision for the 2002 taxation year is deemed to be

- (a) \$27,749.22109 with respect to the threshold amount in the description of B in subsection 2.2(2); and
- (b) \$2,111.50 with respect to clause 2.24(2)(a)(ii)(B).  
S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.4,15(a),(b),(c);  
S.Nu. 2007,c.11,s.3.

## Subdivision c – Tax Credits and Deductions

## Married or common-law status credit

- 2.14.** (1) This section applies to an individual who, at any time in the taxation year,
- (a) is married, supporting his or her spouse and not living separate and apart from the spouse because of a breakdown of their marriage; or
  - (b) is in a common-law partnership, supporting his or her common-law partner and not living separate and apart from the common-law partner because of a breakdown of their common-law partnership.

## Amount deductible for 2001 taxation year

(2) For the purpose of computing the tax payable under this Part for the 2001 taxation year by an individual referred to in subsection (1), there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of

- (a) \$7,412, and
- (b) the amount determined by the formula

$$\$6,293 - (C - \$630)$$

where

C is the greater of \$630, and the income of the individual's spouse or common-law partner for the year or, where the individual and his or her spouse or common-law partner are living separate and apart at the end of the year because of a breakdown of their marriage or common-law partnership, the income of the spouse or common-law partner for the year while married or in the common-law partnership and not so separated.

## Amount deductible for 2002 and subsequent taxation years

(3) For the purpose of computing the tax payable under this Part for the 2002 and subsequent taxation years by an individual referred to in subsection (1), there may be deducted an amount determined by the formula:

A x B

where

A is the appropriate percentage for the year; and

B is the total of

- (a) \$10,000, and
- (b) the amount determined by the formula

\$10,000 - C

where

C is the income of the individual's spouse or common-law partner for the year or, if the individual and his or her spouse or common-law partner are living separate and apart at the end of the year because of a breakdown of their marriage or common-law partnership, the income of the spouse or common-law partner for the year while married or in the common-law partnership and not so separated.

Application of federal Act

(4) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.5.

Amount for eligible dependant

**2.15.** (1) This section applies to an individual who is not entitled to claim a deduction for the taxation year under section 2.14 and who at any time in the taxation year

- (a) is
  - (i) a person who is unmarried and who does not live in a common-law partnership, or
  - (ii) a person who is married or in a common-law partnership, who neither supported nor lived with his or her spouse or common-law partner and who is not supported by that spouse or common-law partner; and
- (b) whether alone or jointly with one or more other persons, maintains a self contained domestic establishment in which the individual lives and actually supports in that establishment a person who, at that time,
  - (i) except in the case of a child of the individual, is resident in Canada,
  - (ii) is wholly dependent for support on the individual, or the individual and the other person or persons, as the case may be,
  - (iii) is related to the individual, and

- (iv) except in the case of a parent or grandparent of the individual, is either under 18 years of age or so dependent because of mental or physical infirmity.

Amount deductible for 2001 taxation year

(2) For the purpose of computing the tax payable under this Part for the 2001 taxation year by an individual referred to in subsection (1), there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of

- (a) \$7,412, and
- (b) the amount determined by the formula

$$\$6,293 - (C - \$630)$$

where

C is the greater of \$630 and the dependent person's income for the year.

Amount deductible for 2002 and subsequent taxation years

(3) For the purpose of computing the tax payable under this Part for the 2002 and subsequent taxation years by an individual referred to in subsection (1), there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of

- (a) \$10,000, and
- (b) the amount determined by the formula

$$\$10,000 - C$$

where

C is the dependent person's income for the year.

## Application of federal Act

(4) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.6.

## Single status credit for 2001 taxation year

**2.16.** (1) Except in the case of an individual entitled to a deduction under section 2.14 or 2.15, for the purpose of computing the tax payable under this Part for the 2001 taxation year by an individual, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is \$7,412.

## Single status credit for 2002 and subsequent taxation years

(2) Except in the case of an individual entitled to a deduction under section 2.14 or 2.15, for the purpose of computing the tax payable under this Part for the 2002 and subsequent taxation years by an individual, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is \$10,000.

S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.7.

## In-home care of relative credit

**2.17.** (1) This section applies to an individual who, at any time in the taxation year, alone or jointly with one or more persons, maintains a self-contained domestic establishment which is the ordinary place of residence of the individual and of a particular person

- (a) who has attained the age of 18 years before that time,
- (b) who is
  - (i) the individual's child or grandchild, or
  - (ii) resident in Canada and is the parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the individual or of the individual's spouse or common-law partner, and



- (c) who is
- (i) the individual's parent or grandparent and has attained the age of 65 years before that time, or
  - (ii) dependent on the individual because of the particular person's mental or physical infirmity.

#### Calculation of tax payable

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual referred to in subsection (1), there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the amount determined by the formula

$$\$15,453 - C$$

where

C is the greater of \$11,953 and the particular person's income for the year.

#### Application of federal Act

(3) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(d),(e).

#### Dependant credit

**2.18.** (1) This section applies to an individual who has any dependant for the taxation year who attained the age of 18 years before the end of the year and who was dependent on the individual because of mental or physical infirmity.

#### Calculation of credit

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual referred to in subsection (1), there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the amount determined by the formula

$$\$8,466 - C$$

where

C is the greater of \$4,966 and the dependant's income for the year.

#### Application of federal Act

(3) Subsections 118(4), (5) and (6) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(f),(g).

#### Additional amount for dependants

**2.19.** (1) This section applies to an individual entitled to a deduction in respect of a person under section 2.15 and who would also be entitled, but for paragraph 118(4)(c) of the federal Act, as that provision applies to this Act, to a deduction under section 2.17 or 2.18 in respect of the person.

#### Calculation of additional amount

(2) For the purposes of computing the tax payable under this Part for a taxation year by an individual referred to in subsection (1), there may be deducted the amount by which the amount that would be determined under section 2.17 or 2.18, as the case may be, exceeds the amount determined under section 2.15 in respect of the person.

#### Application of federal Act

(3) Subsections 118(4), (5) and (6) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(h),(i).

#### Age credit for 2001 taxation year

**2.2.** (1) For the purpose of computing the tax payable under this Part for the 2001 taxation year by an individual who has attained the age of 65 years before the end of the year, there may be deducted an amount determined by the formula

$$A \times (\$3,619 - B)$$

where

A is the appropriate percentage for the year; and

B is 15% of the amount, if any, by which the individual's income for the year would exceed \$26,941 if no amount were included in respect of a gain from a disposition of property to which section 79 of the federal Act applies in computing that income.

## Age credit for 2002 and subsequent taxation years

(2) For the purposes of computing the tax payable under this Part for the 2002 and subsequent taxation years by an individual who has attained the age of 65 years before the end of the year, there may be deducted the amount determined by the formula

$$A \times (\$7,500 - B)$$

where

A is the appropriate percentage for the year; and

B is 15% of the amount, if any, by which the individual's income for the year would exceed \$27,749 if no amount were included in respect of a gain from a disposition of property to which section 79 of the federal Act applies in computing that income.

S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.8.

## Pension credit

**2.21.** (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the lesser of \$1,000 and

- (a) where the individual has attained the age of 65 years before the end of the year, the pension income received by the individual in the year; and
- (b) where the individual has not attained the age of 65 years before the end of the year, the qualified pension income received by the individual in the year.

## Application of federal Act

(2) Subsections 118(7) and (8) of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(j).

## Charitable donations credit

**2.22.** For the purpose of computing the tax payable under this Part by an individual for a taxation year, if the individual is entitled to a deduction under subsection 118.1(3) of the federal Act for the year, there may be deducted such amount as the individual claims not exceeding the amount determined by the formula

$$(A \times B) + [C \times (D - B)]$$

where

- A is the appropriate percentage for the year;
- B is the lesser of \$200 and the amount determined for D;
- C is the highest percentage for the year; and
- D is the amount determined for D in the formula in subsection 118.1(3) of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the year.

S.Nu. 2001,c.14,s.5.

Medical expense credit

**2.23.** (1) Section 118.2 of the federal Act applies for the purposes of this Act, except that any reference to "appropriate percentage" in that section is to be read as a reference to "appropriate percentage" as defined in section 2.1.

Annual adjustments apply

(2) For greater certainty, section 118.2 of the federal Act applies with any adjustments under section 117.1 of the federal Act.

Application

(3) This section applies with respect to the 2004 and subsequent taxation years.  
S.Nu. 2001,c.14,s.5; S.Nu. 2007,c.11,s.4.

Credit for mental or physical impairment for 2001 taxation year

**2.24.** (1) For the purpose of computing an individual's tax payable under this Part for the 2001 taxation year, there may be deducted an amount equal to the specific percentage of the amount that the individual may deduct under section 118.3 of the federal Act for that taxation year.

Credit for mental or physical impairment for 2002 and subsequent taxation years

(2) For the purpose of computing the tax payable under this Part by an individual for the 2002 and subsequent taxation years, or that would be so payable if the individual were liable under section 2 to pay tax for the year, if the individual is entitled to a deduction under subsection 118.3(1) of the federal Act for the year, there may be deducted an amount determined by the formula

$$A \times (\$10,000 + B)$$

where

- A is the appropriate percentage for the year; and

B is

- (a) where the individual has not attained the age of 18 before the end of the year, the amount, if any, by which
  - (i) \$3,605 exceeds
  - (ii) the amount, if any, by which
    - (A) the total of all amounts each of which is an amount paid in the year for the care or supervision of the individual and included in computing a deduction under section 63, 64 or 118.2 of the federal Act for a taxation year exceeds
    - (B) \$2,112, and
- (b) in any other case, \$0.

#### Application of federal Act

(3) Sections 118.3 and 118.4 of the federal Act apply for the purposes of this section. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.9.

#### Tuition credit

**2.25.** Section 118.5 of the federal Act applies for the purposes of this Act, except that any reference to "appropriate percentage" in that section is to be read as a reference to "appropriate percentage" as defined in section 2.1. S.Nu. 2001,c.14,s.5.

#### Education credit

**2.26.** (1) Where an individual is entitled to deduct an amount under subsection 118.6(2) of the federal Act for the purpose of computing the individual's tax payable for a taxation year under Part I of the federal Act, for the purpose of computing the tax payable for a taxation year under this Part by the individual for the taxation year, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of the products obtained when

- (a) \$400 is multiplied by the number of months in the year during which the individual is enrolled in a qualifying educational program as a full-time student at a designated educational institution, or as a part-time student at a designated educational institution if the part-time student has a physical or mental impairment; and
- (b) \$120 is multiplied by the number of months in the year, other than months described in paragraph (a), each of which is a month

during which the individual is enrolled at a designated educational institution in a specified educational program that provides that each student in the program spend not less than 12 hours in the month on courses in the program.

#### Application of federal Act

(2) Section 118.6 of the federal Act applies for the purposes of this section, except that subsection (1) of this section applies instead of subsection 118.6(2) of the federal Act. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(k).

#### Application of federal Act

**2.27.** (1) Subsections 118.61(1) and (2) of the federal Act apply for the purposes of this Act.

#### Unused tuition and education credits

(2) For the purposes of this section, an individual's unused tuition and education credits at the end of the 2000 taxation year shall be equal to the amount that would be the individual's unused tuition and education credits at the end of that year under subsections 118.61(1) and (2) of the federal Act if the percentage applied under sections 118.5 and 118.6 of that Act in computing the individual's tuition and education credits had been the appropriate percentage instead of the appropriate percentage as defined in that Act.

#### Where individual not resident in Nunavut

(3) Where an individual did not reside in Nunavut on the last day of the preceding taxation year, the individual's unused tuition and education credits at the end of that year shall be equal to the amount that would be the individual's unused tuition and education credits at the end of that year under subsections 118.61(1) and (2) of the federal Act if the percentage applied under section 118.5 and 118.6 of that Act in computing the individual's tuition and education credits had been the appropriate percentage instead of the appropriate percentage as defined in that Act. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.10.

#### Credit for interest on student loan

**2.28.** For the purpose of computing the tax payable under this Part by an individual for a taxation year, if the individual is entitled to a deduction under section 118.62 of the federal Act for the year, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

**B** is the amount determined for B in the formula in section 118.62 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the year.

S.Nu. 2001,c.14,s.5.

#### Credit for EI premium and CPP contribution

**2.29.** Section 118.7 of the federal Act applies for the purposes of this Act, except that any reference to "appropriate percentage" in that section is to be read as a reference to "appropriate percentage" as defined in section 2.1. S.Nu. 2001,c.14,s.5.

#### Transfer of tax credits

**2.3.** (1) Sections 118.8 and 118.81 of the federal Act apply for the purposes of this Act, except that the reference to "\$800", or to the amount that it is amended to read, in subparagraph (ii) of the description of A in paragraph 118.81(a) of the federal Act shall be read as a reference to "\$360" for the 2001 taxation year, and "\$200" for the 2002 and subsequent taxation years.

#### Application of federal Act

(2) Section 118.9 of the federal Act applies for the purposes of this Act.

#### Where spouse, common-law partner or individual not resident in Nunavut

(3) In applying sections 118.8, 118.81 and 118.9 of the federal Act for the purposes of this section, where a spouse, common-law partner or individual did not reside in Nunavut on the last day of the taxation year, any credits transferred by the spouse, common-law partner or individual to another individual for the year under this section are to be computed on the basis that the spouse, common-law partner or individual was liable under section 2 to pay tax for the year. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.11.

#### Minimum tax carry-over

**2.31.** There may be deducted in computing an individual's tax payable under this Part for a taxation year the amount determined by the formula

$$A \times B$$

where

**A** is the specific percentage for the year; and

**B** is the amount that the individual may deduct for the taxation year under section 120.2 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act.

S.Nu. 2001,c.14,s.5.

#### Deduction for taxable dividends

**2.32.** (1) Section 121 of the federal Act applies for the purposes of this Act, except that in that section the references to "2/3" and "11/18" shall be read as references to "20%".

### Application

(2) Subsection (1) applies with respect to the 2006 and subsequent taxation years. S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.12; S.Nu. 2007,c.11,s.5.

### Overseas employment tax credit

**2.33.** For the purposes of computing tax payable under this Part by an individual for a taxation year, there may be deducted an amount equal to the specific percentage of the amount that the individual may deduct under section 122.3 of the federal Act for that taxation year. S.Nu. 2001,c.14,s.5.

## Subdivision d – Restrictions on Credits and Other Rules

### Part-year residents

**2.34.** Section 118.91 of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Ordering of non-refundable credits

**2.35.** Section 118.92 of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Credits in separate returns

**2.36.** Section 118.93 of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Tax payable by non-resident

**2.37.** Section 118.94 of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Credits in year of bankruptcy

**2.38.** Section 118.95 of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Tax payable by *inter vivos* trust

**2.39.** Subsections 122(1) and (2) of the federal Act apply for the purposes of this Act, except that the reference to "29%", or to the percentage that it is amended to read, in subsection 122(1) of the federal Act shall be read, for the purposes of this Act, as a reference to the "highest percentage" as defined in section 2.1. S.Nu. 2001,c.14,s.5.

### Deductions not permitted for trusts

**2.4.** Subsection 122(1.1) of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.

### Bankrupt individuals

**2.41.** Subsection 128(2) of the federal Act applies for the purposes of this Act. S.Nu. 2001,c.14,s.5.



## Subdivision e – Other Taxes Payable

## Tax on split income

**2.42.** Section 120.4 of the federal Act applies for the purposes of this Act, except that the reference to "29%", or to the percentage that it is amended to read, in subsection 120.4(2) of the federal Act shall be read, for the purposes of this Act, as a reference to the "highest percentage" as defined in section 2.1. S.Nu. 2001,c.14,s.5.

## Minimum tax

**2.43.** If an individual is required to pay tax under section 127.5 of the federal Act in respect of a taxation year, there shall be added to the individual's tax payable under this Part for the taxation year an amount determined by the formula

$$A \times B$$

where

A is the specific percentage for the year; and

B is the individual's additional tax for the taxation year determined pursuant to subsection 120.2(3) of the federal Act.

S.Nu. 2001,c.14,s.5.

## Subdivision f – Multi-jurisdictional and Non-resident Individuals

## Multi-jurisdictional and non-resident individuals

**2.44.** (1) This section applies to an individual

- (a) who resided in Nunavut on the last day of the taxation year and had income earned in the taxation year outside Nunavut; or
- (b) who did not reside in Nunavut on the last day of the taxation year and had income earned in the taxation year in Nunavut.

## Calculation of amount

(2) Notwithstanding Subdivisions a to e, the tax payable under Subdivisions a to e for a taxation year by an individual referred to in subsection (1) shall be the amount determined by the formula

$$A \times B/C$$

where

A is the tax otherwise payable by the individual under Subdivisions a to e;

B is the individual's income earned in the taxation year in Nunavut; and

C is the individual's income for the year.  
S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(1).

#### Non-Canadian income

**3.** (1) Where an individual resided in Nunavut on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any non-business-income tax was paid by him or her to the government of a country other than Canada, that individual may deduct from the tax payable by him or her under this Act for that taxation year an amount equal to the lesser of:

- (a) the amount, if any, by which any non-business-income tax paid by him or her for the year to the government of such other country exceeds the aggregate of all amounts each of which is an amount claimed by him or her as a deduction for that year under subsection 126(1) of the federal Act; and
- (b) that proportion of the tax otherwise payable under this Act for that taxation year that:
  - (i) the aggregate of the individual's incomes from sources in that country excluding any portion thereof that was deductible by him or her under subparagraph 110(1)(f)(i) of the federal Act or in respect of which an amount was deductible by him or her under section 110.6 of the federal Act
    - (A) for that year, if section 114 of the federal Act is not applicable, or
    - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph 114(a) of the federal Act,
 on the assumption that
    - (C) no businesses were carried on by him or her in that country,
    - (D) no amount was deducted under subsection 91(5) of the federal Act in computing his or her income for the year, and
    - (E) his or her income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect thereof under paragraphs 122.3(1)(c) and (d) of the federal Act for the year,

is of

- (ii) the individual's income earned in Nunavut:
  - (A) in the year, if section 114 of the federal Act is not applicable, or

(B) if section 114 of the federal Act is applicable, in the period or periods of the year referred to in paragraph 114(a) of the federal Act, minus any amounts deducted by him or her under section 110.6 or paragraph 111(1)(b) of the federal Act or deductible by him or her under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) or section 112 of the federal Act for the year or in respect of such period or periods, as the case may be.

Definitions of "tax payable" and "tax otherwise payable"

(2) For the purposes of subsection (1), "tax payable" and "tax otherwise payable" mean the amount that would, but for section 127.4 of the federal Act, be the tax otherwise payable under this Act.

Non-business-income tax paid outside Canada

(3) For the purposes of subsection (1) and paragraph 4(3)(b), the non-business-income tax paid by a taxpayer to the government of a country other than Canada in respect of his or her income for a year is the non-business-income tax paid by him or her to the government of that country in respect of that year as defined in subsection 126(7) of the federal Act for the purposes of that Act.

Application in Nunavut

(4) Notwithstanding any other provision of this Act, for the purposes of calculating the income of an individual under this Act with income from a business with a permanent establishment in Nunavut after April 1, 1999, Nunavut shall be deemed to have existed and to have had the same geographic boundaries as described in section 3 of the *Nunavut Act*, throughout the first fiscal period of the business ending after March 31, 1999. R.S.N.W.T. 1988,c.19(Supp.),s.4,6; R.S.N.W.T. 1988,c.58(Supp.),s.2; S.N.W.T. 1991-92,c.37,s.1; S.N.W.T. 1999,c.9,Sch.C,s.1; S.Nu. 2001,c.14,s.5; S.Nu. 2002,c.24,s.15(m),(n),(o).

## CHILD BENEFIT

Definitions

**3.1.** For the purposes of this section and sections 3.2 to 3.4,

"adjusted earned income" of an individual for a taxation year means the total of all amounts each of which is the earned income for the year of the individual or of the person who was the individual's cohabiting spouse at the end of the year; (*revenu gagné modifié*)

"adjusted income" of an individual for a taxation year means the total of all amounts each of which would be the income for the year of the individual or of the person who was the individual's cohabiting spouse at the end of the year if no amount were included in respect of a gain from a disposition of property to which section 79 of the federal Act applies in computing that income; (*revenu modifié*)

"base taxation year" in relation to a month means,

- (a) where the month is any of the first six months of a calendar year, the taxation year that ended on December 31 of the second preceding calendar year, and
- (b) where the month is any of the last six months of a calendar year, the taxation year that ended on December 31 of the preceding calendar year; (*année de base*)

"cohabiting spouse" of an individual at any time means the person who at that time is the individual's spouse and who is not at that time living separate and apart from the individual and, for the purpose of this definition, a person shall not be considered to be living separate and apart from an individual at any time unless they were living separate and apart at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time; (*conjoint visé*)

"earned income" of an individual for a taxation year has the same meaning as in subsection 63(3) of the federal Act; (*revenu gagné*)

"eligible individual" in respect of a qualified dependant at any time means a person who at that time

- (a) resides with the qualified dependant,
- (b) is the parent of the qualified dependant who primarily fulfils the responsibility for the care and upbringing of the qualified dependant,
- (c) is resident in Nunavut,
- (d) is not described in paragraph 149(1)(a) or (b) of the federal Act, and
- (e) is, or whose cohabiting spouse is, a Canadian citizen or a person who
  - (i) is a permanent resident within the meaning assigned by the *Immigration Act* (Canada),
  - (ii) is a visitor in Canada or the holder of a permit in Canada within the meanings assigned by the *Immigration Act* (Canada) who was resident in Canada throughout the 18 month period preceding that time, or
  - (iii) was determined before that time under the *Immigration Act* (Canada) or the regulations under that Act, to be a Convention refugee,

and for the purposes of this definition,

- (f) where the qualified dependant resides with the dependant's female parent, the parent who primarily fulfils the responsibility for the care and upbringing of the qualified dependant is presumed to be the female parent,
- (g) the presumption referred to in paragraph (f) does not apply in circumstances prescribed by federal regulations, and

- (h) factors prescribed by federal regulations shall be considered in determining what constitutes care and upbringing; (*particulier admissible*)

"qualified dependant" at any time means a person who at that time

- (a) has not attained the age of 18 years,
- (b) resides with an eligible individual in Nunavut,
- (c) is not a person in respect of whom an amount was deducted under paragraph (a) of the description of B in subsection 118(1) of the federal Act in computing the tax payable under the federal Act by the person's spouse for the base taxation year in relation to the month that includes that time, and
- (d) is not a person in respect of whom a special allowance under the *Children's Special Allowances Act* (Canada) is payable for the month that includes that time; (*personne à charge admissible*)

"return of income" filed by an individual for a taxation year means,

- (a) where the individual was resident in Canada throughout the year, the individual's return of income, other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4) of the federal Act, that is filed or required to be filed under Part I of the federal Act for the year, and
- (b) in any other case, a prescribed form containing prescribed information, that is filed with the Minister. (*déclaration de revenu*) S.N.W.T. 1998,c.12,s.2(1); S.Nu. 2001,c.14,s.2(1)(c).

**\* See S.N.W.T. 1998,c.12,s.2(2) respecting the application of amendments to this section.**

Deemed overpayment

- 3.2.** (1) A person is deemed to have made an overpayment in a month on account of the person's liability under this Act for the base taxation year in relation to that month if
- (a) the person and, where the Commissioner so demands, the person's cohabiting spouse at the end of the taxation year have filed a return of income for the year, and
  - (b) the person was resident in Nunavut at the beginning of the month and on the day before the month.

Calculation of overpayment

(2) The amount of the overpayment deemed to have been made under subsection (1) is equal to the amount determined by the formula

$$1/12 (A - B)$$

where

- (a) A is the total of
- (i) the product obtained by multiplying \$330 by the number of qualified dependants in respect of whom the person was an eligible individual at the beginning of the month, and
  - (ii) where the person is, at the beginning of the month, an eligible individual in respect of one or more qualified dependants, the amount determined by the formula

$$\frac{C \times (D - \$3,750)}{\$6,250}$$

where

- (A) C is, where the person is an eligible individual in respect of
    - (I) only one qualified dependant, \$275, and
    - (II) two or more qualified dependants, \$350, and
  - (B) D is the lesser of \$10,000 and the person's adjusted earned income for the year, and
- (b) B is 5% (or where the person is an eligible individual in respect of only one qualified dependant at the beginning of the month, 3%) of the amount, if any, by which the person's adjusted income for the year exceeds \$20,921.

#### Exceptions

(3) Notwithstanding subsection (1), where a particular month is the first month during which an overpayment that is less than \$10 (or such other amount as is prescribed by federal regulations) is deemed under that subsection to have arisen on account of a person's liability under this Act for the base taxation year in relation to the particular month, any such overpayment that would, but for this subsection, reasonably be expected at the end of the particular month to arise during another month in relation to which the year is the base taxation year shall be deemed to arise under that subsection during the particular month and not during the other month.

#### Non-residents and part-year residents

(4) For the purposes of this section, unless a person was resident in Canada throughout a taxation year,

- (a) for greater certainty, the person's income for the year shall be deemed to be equal to the amount that would have been the person's income for the year had the person been resident in Canada throughout the year; and

- (b) the person's earned income for the year shall not exceed that portion of the amount that would, but for this paragraph, be the person's earned income that is included because of section 114 or subsection 115(1) of the federal Act in computing the person's taxable income or taxable income earned in Canada, as the case may be, for the year.

#### Effect of bankruptcy

(5) For the purposes of this section and sections 3.1, 3.3 and 3.4, where in a taxation year an individual becomes bankrupt,

- (a) the individual's earned income for the year shall include the individual's earned income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy;
- (b) the individual's income for the year shall include the individual's income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy; and
- (c) the total of all amounts deducted under section 63 of the federal Act in computing the individual's income for the year shall include the amount deducted under that section for the individual's taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy.

#### Amount not to be charged, etc.

(6) A refund of an amount deemed by this section to be an overpayment on account of a person's liability under this Act for a taxation year

- (a) cannot be charged or given as security;
- (b) cannot be assigned except under a prescribed Act;
- (c) cannot be garnished or attached;
- (d) is exempt from seizure; and
- (e) cannot be retained by way of deduction or set-off under the *Financial Administration Act*.

#### Annual adjustment

(7) Each amount (other than the amount of \$6,250) expressed in dollars in subsection (2) shall be adjusted so that, where the base taxation year in relation to a particular month is after 1996, the amount to be used under that subsection for the month is equal to the total of

- (a) the amount that would, but for subsection (9), be the relevant amount used under subsection (1) for the month that is one year before the particular month, and
- (b) the product obtained by multiplying
  - (i) the amount referred to in paragraph (a),  
by

- (ii) the amount, adjusted in such manner as is prescribed by federal regulations and rounded to the nearest one-thousandth or, where the result obtained is equidistant from two such consecutive one-thousandths, to the higher thereof, that is determined by the formula

$$A/B - 1.03$$

where

- (iii) A is the Consumer Price Index (within the meaning assigned by subsection 117.1(4) of the federal Act) for the 12 month period that ended on March 31 in the calendar year following the base taxation year, and
- (iv) B is the Consumer Price Index for the 12 month period preceding the period referred to in the description of A.

#### Annual adjustment

(8) The amount of \$6,250 referred to in subsection (2) shall be adjusted so that the amount to be used under that subsection for a month in relation to a base taxation year that is after 1996 is equal to the amount by which

- (a) the amount of \$10,000 referred to in that subsection, as adjusted and rounded under this section for the year,

exceeds

- (b) the amount of \$3,750 referred to in that subsection, as adjusted and rounded under this section for the year.

#### Rounding

(9) Where an amount referred to in subsection (2), when adjusted as provided in subsection (7), is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, where it is equidistant from two such consecutive multiples, to the higher thereof. S.N.W.T. 1998,c.12,s.2(1); S.Nu. 2001,c.14,s.2(1)(d).

**\* See S.N.W.T. 1998,c.12,s.2(2) respecting the application of amendments to this section.**

#### Eligible individuals

**3.3.** (1) For the purposes of this section and sections 3.1, 3.2 and 3.4, a person may be considered to be an eligible individual in respect of a particular qualified dependant at the beginning of a month only if the person has, no later than 11 months after the end of the month, filed with the Minister a notice in prescribed form containing prescribed information.

#### Extension for notices

(2) The Minister may at any time extend the time for filing a notice under subsection (1).



### Person ceasing to be an eligible individual

(3) Where during a particular month a person ceases to be an eligible individual in respect of a particular qualified dependant (otherwise than because of the qualified dependant attaining the age of 18 years), the person shall notify the Minister of that fact before the end of the first month following the particular month.

### Death of cohabiting spouse

#### (4) Where

- (a) before the end of a particular month the cohabiting spouse of an eligible individual in respect of a qualified dependant dies, and
- (b) the individual so elects, before the end of the eleventh month after the particular month, in a form that is acceptable to the Minister,

for the purpose of determining the amount deemed under subsection 3.2(1) to be an overpayment arising in any month after the particular month on account of the individual's liability under this Act for the base taxation year in relation to the particular month, subject to any subsequent election under subsection (5) or (6),

- (c) the individual's adjusted income for the year is deemed to be equal to the individual's income for the year, and
- (d) the individual's adjusted earned income for the year is deemed to be equal to the individual's earned income for the year.

### Separation from cohabiting spouse

#### (5) Where

- (a) before the end of a particular month an eligible individual in respect of a qualified dependant begins to live separate and apart from the individual's cohabiting spouse, because of a breakdown of their marriage, for a period of at least 90 days that includes a day in the particular month, and
- (b) the individual so elects, before the end of the eleventh month after the particular month, in a form that is acceptable to the Minister,

for the purpose of determining the amount deemed under subsection 3.2(1) to be an overpayment arising in any month after the particular month on account of the individual's liability under this Act for the base taxation year in relation to the particular month subject to any subsequent election under subsection (4) or (6),

- (c) the individual's adjusted income for the year is deemed to be equal to the individual's income for the year, and
- (d) the individual's adjusted earned income for the year is deemed to be equal to the individual's earned income for the year.

### Person becoming a cohabiting spouse

#### (6) Where

- (a) at any particular time before the end of a particular month a taxpayer has become the cohabiting spouse of an eligible individual, and

- (b) the taxpayer and the eligible individual jointly so elect in prescribed form filed with the Minister before the end of the eleventh month after the particular month,

for the purpose of determining the amount deemed by subsection 3.2(1) to be an overpayment arising in any month after the particular month on account of the eligible individual's liability under this Act for the year, the taxpayer is deemed to have been the eligible individual's cohabiting spouse throughout the period that began immediately before the end of the base taxation year in relation to the particular month and ended at the particular time. S.N.W.T. 1998,c.12,s.2(1).

**\* See S.N.W.T. 1998,c.12,s.2(2) respecting the application of amendments to this section.**

#### Set-off

**3.4.** Where a taxpayer has requested that an amount, considered under subsection 3.2(1) to be an overpayment on account of the taxpayer's liability under this Act for a taxation year, be applied to a liability of the taxpayer and the taxpayer's return of income is filed on or before the day it was required by section 150 of the federal Act to be filed, the amount shall be considered to have been applied on the day on which it would have been refunded if the taxpayer were not liable to make a payment to Her Majesty in right of Canada. S.N.W.T. 1998,c.12,s.2(1).

**\* See S.N.W.T. 1998,c.12,s.2(2) respecting the application of amendments to this section.**

## CORPORATION INCOME TAX

#### Tax rate for corporations for 2001 and earlier taxation years

**4.** (1) The tax payable by a corporation under this Act for the 2001 and earlier taxation years is 14% of the corporation's taxable income earned in the year in Nunavut.

(1.1) **Repealed, R.S.N.W.T. 1988,c.118(Supp.),s.2.**

(1.2) **Repealed, R.S.N.W.T. 1988,c.118(Supp.),s.2.**

(1.3) **Repealed, R.S.N.W.T. 1988,c.87(Supp.),s.3.**

#### Tax rate for corporations for 2002 and subsequent taxation years

(1.4) The tax payable by a corporation under this Act for the 2002 and subsequent taxation years is 12% of the corporation's taxable income earned in the year in Nunavut.

#### Definitions

(2) In this section,

"taxable income earned in the year" by a corporation means the aggregate of the taxable incomes earned in the year in each province by the corporation as determined in accordance with regulations referred to in paragraph 124(4)(a) of the federal Act; (*revenu imposable gagné dans l'année*)

"taxable income earned in the year in Nunavut" by a corporation means the taxable incomes earned in the year in Nunavut by the corporation as determined in accordance with regulations referred to in paragraph 124(4)(a) of the federal Act. (*revenu imposable gagné dans l'année au Nunavut*)

#### Small business rate for 2001 and earlier taxation years

(2.1) Where a corporation is allowed a deduction under subsection 125(1) of the federal Act for the 2001 and earlier taxation years, the corporation shall pay tax equal to the aggregate of

- (a) 5% on an amount that is the proportion of the least of the amounts determined under paragraphs 125(1)(a), (b) and (c) of the federal Act in respect of the corporation for the taxation year that the amount of the portion of its taxable income earned in the year in Nunavut bears to the total amount of the portions of its taxable income earned in the year; and
- (b) 14% on an amount calculated by deducting from the taxable income earned in the year in Nunavut the amount on which the 5% rate is applied in paragraph (a).

**\* See R.S.N.W.T. 1988,c.118(Supp.),s.3 and 4 respecting the application of amendments to this subsection.**

#### Small business rate for 2002 and subsequent taxation years

(2.11) Where a corporation is allowed a deduction under subsection 125(1) of the federal Act for the 2002 and subsequent taxation years, the corporation shall pay tax equal to the aggregate of

- (a) 4% on an amount that is the proportion of the least of the amounts determined under paragraphs 125(1)(a), (b) and (c) of the federal Act in respect of the corporation for the taxation year that the amount of the portion of its taxable income earned in the year in Nunavut bears to the total amount of the portions of its taxable income earned in the year; and
- (b) 12% on an amount calculated by deducting from the taxable income earned in the year in Nunavut the amount on which the 4% rate is applied in paragraph (a).

#### Transitional

(2.2) Where a corporation has a taxation year part of which is in 1993 and part of which is in 1994, tax payable for the taxation year shall be calculated as follows:

- (a) by dividing the taxation year into two notional taxation years, the first ending on December 31, 1993 and the second beginning on January 1, 1994;
- (b) by apportioning the taxable income earned in the year between the two notional taxation years proportionately according to the number of days in each;
- (c) by calculating

- (i) tax for the first notional taxation year in accordance with this Act as it read on December 31, 1993,
- (ii) tax for the second notional taxation year in accordance with this Act as it is deemed to have read on January 1, 1994;
- (d) by adding together the amounts determined under paragraph (c).

#### Transitional

(2.3) Where a corporation has a taxation year part of which is in 2001 and part of which is in 2002, tax payable for the taxation year shall be calculated as follows:

- (a) by dividing the taxation year into two notional taxation years, the first ending on December 31, 2001 and the second beginning on January 1, 2002;
- (b) by apportioning the taxable income earned in the year between the two notional taxation years proportionately according to the number of days in each;
- (c) by calculating
  - (i) tax for the first notional taxation year in accordance with this Act as it read on December 31, 2001,
  - (ii) tax for the second notional taxation year in accordance with this Act as it is deemed to have read on January 1, 2002;
- (d) by adding together the amounts determined under paragraph (c).

#### Deduction where corporation has foreign investment income

(3) Where the income for a taxation year of a corporation that maintained a permanent establishment in Nunavut at any time in the taxation year includes income described in subparagraph 126(1)(b)(i) of the federal Act from sources in a country other than Canada (in this section referred to as "foreign investment income") and where the corporation has claimed a deduction under subsection 126(1) of the federal Act in respect of the foreign investment income, the corporation may deduct from the tax for the year otherwise payable under this Act an amount equal to the lesser of

- (a) 12% of the product of
  - (i) the foreign investment income of the corporation for the year from sources in the country, and
  - (ii) that proportion of the taxable income earned in the year by the corporation that is determined to have been earned in the year in Nunavut in accordance with regulations referred to in paragraph 124(4)(a) of the federal Act; and
- (b) that proportion of the amount by which such part of any non-business-income tax paid by the corporation for the year to the government of a country other than Canada (except any such tax or part thereof that may reasonably be regarded as having been paid in respect of income from a share of the capital stock of a foreign affiliate of the corporation) exceeds the amount of the deduction claimed by the corporation under subsection 126(1) of the federal Act that

- (i) the taxable income earned in the year in Nunavut by the corporation as determined in accordance with regulations referred to in paragraph 124(4)(a) of the federal Act,
- is of
- (ii) the taxable income earned in the year by the corporation.

Separate deductions where income arises in more than one foreign country

(4) Where the income of a corporation for a taxation year includes income from sources in more than one country other than Canada, subsection (3) shall be read as providing for separate deductions in respect of each of the countries other than Canada.

Transitional – inclusion of Nunavut taxable income

(5) Notwithstanding any other provision of this Act, for the purpose of calculating the taxable income under this Act of a corporation with a permanent establishment in Nunavut on April 1, 1999, Nunavut shall be deemed to have existed, and to have had the same geographical boundaries as described in section 3 of the *Nunavut Act*, throughout the first taxation year of the corporation that ends after March 31, 1999.

R.S.N.W.T. 1988,c.58(Supp.),s.3,4; R.S.N.W.T. 1988,c.87(Supp.),s.2,3,4;

R.S.N.W.T. 1988,c.118(Supp.),s.2; S.N.W.T. 1994,c.11,s.2,3,4;

S.N.W.T. 1999,c.9,Sch.C,s.2; S.Nu. 2001,c.14,s.2(1)(e); S.Nu. 2002,c.24,s.13.

## DEDUCTIONS FROM TAX

"net income" defined

**4.1.** (1) In this section, "net income" means the income earned in the year in Nunavut determined in accordance with Division B of Part I of the federal Act and the regulations referred to in paragraph 120(4)(a) of the federal Act but does not include a social assistance payment or amount described in paragraph 110(1)(f) of the federal Act.

Where section does not apply

(1.1) This section does not apply to

- (a) a trust or estate within the meaning of subsection 104(1) of the federal Act; or
- (b) an individual who did not reside in Nunavut on the last day of the taxation year.

Deduction based on net income for 2007 and subsequent taxation years

(1.2) In respect of the 2007 and subsequent taxation years, an individual may deduct from tax otherwise payable under this Act an amount equal to

- (a) 2% of the individual's net income, if the individual's net income does not exceed \$60,000; or
- (b) \$1,200, where the individual's net income exceeds \$60,000.

#### Additional deduction based on net income for 2007 and subsequent taxation years

(1.3) In respect of the 2007 and subsequent taxation years, a single parent may deduct from tax otherwise payable under this Act an amount equal to 2% of the portion of the individual's net income that exceeds \$60,000 to a maximum of \$255.12.

#### Definition

(1.4) In subsection (1.3), "single parent" means an individual who at any time in the taxation year

- (a) is
  - (i) unmarried and who does not live in a common-law partnership, or
  - (ii) married or in a common-law partnership and is living separate and apart from the spouse or common-law partner by reason of a breakdown of their marriage or common-law partnership; and
- (b) has, in law or in fact, the custody and control of a child, who
  - (i) has not attained the age of 18 years and who is wholly dependent for support on the individual, or
  - (ii) has attained the age of 18 years, but who is wholly dependent for support on the individual because of mental or physical infirmity.

#### Extended meaning of single parent

(1.5) Where custody and control of a child is shared, any individual who fulfils the responsibility for the care and upbringing of the child for at least 50% of the time qualifies as a single parent.

#### Deduction based on net income

(2) In respect of the taxation years 1994 to 2001, an individual may deduct from tax otherwise payable under this Act an amount equal to

- (a) 1.25% of the individual's net income, if the individual's net income does not exceed \$12,000;
- (b) \$150 plus 1% of the amount by which the individual's net income exceeds \$12,000, if the individual's net income exceeds \$12,000 but does not exceed \$48,000;
- (c) \$510 plus 0.75% of the amount by which the individual's net income exceeds \$48,000, if the individual's net income exceeds \$48,000 but does not exceed \$66,000; or
- (d) \$645, where the individual's net income exceeds \$66,000.

#### Deduction based on net income for 2002 and subsequent taxation years

(2.1) In respect of the 2002 and subsequent taxation years, an individual may deduct from tax otherwise payable under this Act an amount equal to

- (a) 2.00% of the individual's net income, if the individual's net income does not exceed \$12,000;

- (b) \$240 plus 1.50% of the amount by which the individual's net income exceeds \$12,000, if the individual's net income exceeds \$12,000 but does not exceed \$46,000; or
- (c) \$750, where the individual's net income exceeds \$46,000.

#### Deduction for 1993 taxation year

(3) In respect of the 1993 taxation year, an individual may deduct from tax otherwise payable under this Act an amount equal to

- (a) 0.625% of the individual's net income, if the individual's net income does not exceed \$12,000;
- (b) \$75 plus 0.5% of the amount by which the individual's net income exceeds \$12,000, if the individual's net income exceeds \$12,000 but does not exceed \$48,000;
- (c) \$255 plus 0.375% of the amount by which the individual's net income exceeds \$48,000, if the individual's net income exceeds \$48,000 but does not exceed \$66,000; or
- (d) \$322.50, where the individual's net income exceeds \$66,000.

#### Application of refund

(4) The amount by which the deduction to which an individual is entitled under this section exceeds the individual's tax payable under this Act for the taxation year calculated without reference to this section may be applied by the Commissioner to pay any

- (a) tax, interest or penalty owing by the individual for that or any prior taxation year under this Act, the income tax statute of any agreeing province or the federal Act,
- (b) contribution, penalty or interest owing by the individual for that or any prior taxation year as a result of payments required from the individual under the *Canada Pension Plan*, and
- (c) premium, interest or penalty owing by the individual for that or any prior taxation year under the *Unemployment Insurance Act* (Canada),

and the part of the amount not so applied shall be paid to the individual.

S.N.W.T. 1993,c.9,s.2; S.N.W.T. 1996,c.11,s.2; S.Nu. 2001,c.14,s.2(1)(e);

S.Nu. 2002,c.24,s.14; S.Nu. 2006,c.19,s.2; S.Nu. 2007,c.2,s.2.

#### Definition of election terminology

**5.** (1) For the purpose of this section and section 6, "candidate", "election period" and "financial agent" have the same meanings as in section 2 of the *Nunavut Elections Act*.

#### Deduction for political contribution

(2) Where an individual or a corporation has contributed money in the year to a candidate at an election of a member of the Legislative Assembly, the individual or the corporation may deduct from the tax otherwise payable under this Act an amount equal to

- (a) 100% of the aggregate if the aggregate does not exceed \$100; or
- (b) the lesser of

- (i) \$100 plus 50% of the amount by which the aggregate exceeds \$100, and
- (ii) \$500.

#### Filing of receipt

(3) An individual or corporation claiming a deduction pursuant to subsection (2) shall file a receipt signed by the financial agent of a candidate that contains prescribed information to prove the amount contributed.

#### Issue of receipts

(3.1) The financial agent shall, in accordance with the *Nunavut Elections Act*, issue a receipt referred to in subsection (3) only to the contributor who made it and only in respect of the contribution for which it provides evidence.

#### Payment of contribution

(4) The amount of money contributed to a candidate must be paid during the election period or, where a candidate has a campaign deficit, within 60 days after the election period. S.Nu. 2002,c.17,s.273(1),(2); S.Nu. 2007,c.3,s.37(2)(a),(3).

#### Books and records relating to political contributions

**6.** (1) The financial agent of a candidate shall keep records and books of account at an address in Canada recorded with or designated by the Minister and the records and books shall be kept in a manner that enables the amounts contributed received by the financial agent and expenditures made by the financial agent to be verified.

(2) **Repealed, S.Nu. 2007,c.3,s.37(4).**

#### Application

(3) Subsections 230(3) to (8) of the federal Act apply with such modifications as the circumstances require. S.Nu. 2002,c.17,s.273(3); S.Nu. 2007,c.3,s.37(2)(b),(4).

#### "investment tax credit" defined

**6.1.** (1) In this section, "investment tax credit" means the aggregate of the tax credit amounts shown on all tax credit certificates issued to a taxpayer in respect of a taxation year under the *Risk Capital Investment Tax Credits Act*.

#### Deduction

(2) There may be deducted from the tax otherwise payable by a taxpayer under this Act for a taxation year the lesser of

- (a) the taxpayer's investment tax credit for that taxation year and any amounts the taxpayer is entitled to deduct in the taxation year under subsection (5); and
- (b) the amount by which \$30,000 exceeds the amount of any tax credit that the taxpayer is entitled to deduct under section 127.4 of the federal Act from tax payable under the federal Act for the taxation year.



#### Tax credit certificates to be filed

(3) A taxpayer who is entitled to a deduction under this section shall file, with the taxpayer's annual return for any taxation year in respect of which a deduction is claimed under this section, a copy of the relevant tax credit certificates issued under the *Risk Capital Investment Tax Credits Act*.

#### Time period for filing

(4) A taxpayer is not entitled to a deduction under this section unless the taxpayer files a return within three years after the end of the taxation year to which the deduction pertains.

#### Carryforward or carryback of tax credit

(5) Subject to subsection (6), where the deduction to which the taxpayer is entitled under this section exceeds the tax otherwise payable under this Act by the taxpayer for the taxation year, the amount of the excess may be

- (a) carried back and deducted from tax otherwise payable by the taxpayer in any of the taxpayer's three previous taxation years, but no deduction may be claimed in any taxation year that ended prior to the coming into force of the *Risk Capital Investment Tax Credits Act*; or
- (b) carried forward and deducted from tax otherwise payable by the taxpayer in any one or more of the taxpayer's seven subsequent taxation years.

#### Limits on carryforward and carryback – individual

(6) No individual may claim the investment tax credit carryforward or carryback set out in subsection (5) unless the individual:

- (a) was resident in Nunavut on the last day of the taxation year in which the investment tax credit arose; or
- (b) had income earned in the taxation year in Nunavut, as defined in section 2.1, in the taxation year in which the investment tax credit arose.

#### Limits on carryforward and carryback – corporation

(7) No corporation may claim the investment tax credit carryforward or carryback set out in subsection (5) unless the corporation maintained a permanent establishment in Nunavut at any time in the year in which the investment tax credit arose.

#### Deemed coming into force

(8) This section is deemed to have come into force on September 25, 1998. S.N.W.T. 1998,c.18,s.2; S.N.W.T. 1999,c.11,s.2(2); S.Nu. 2001,c.14,s.2(1)(f),6.

## DIVISION C – SPECIAL CASES

## FARMING, FISHING AND EXEMPTIONS

Tax charge on farmers and fishermen for year of averaging

**7.** (1) Where an individual whose chief source of income has been farming or fishing during a taxation year (in this section referred to as the "year of averaging") has filed an election in accordance with subsection 119(1) of the federal Act for the year of averaging, the tax payable under this Part for the year of averaging is an amount determined by the following rules:

- (a) determine the amount (in this section referred to as the "average tax") for each year in the averaging period (which, in this section, has the meaning given to that expression under section 119 of the federal Act) equal to the tax that would be payable under the federal Act, within the meaning of section 3 of this Act, if the taxable income for the year were the average net income for the year within the meaning of paragraph 119(1)(c) of the federal Act,
- (b) determine the amount (in this section referred to as the "provincial tax") for each year in the averaging period equal to the tax that would be payable under this Part for the year if the tax that would be payable under the federal Act for the year, within the meaning of section 3 of this Act, were the average tax for the year,
- (c) deduct from the aggregate of the provincial taxes as determined under paragraph (b) for the years in the averaging period the aggregate of the taxes payable under this Part for the preceding years (which, in this section has the meaning given to that expression under section 119 of the federal Act),

and the remainder obtained under paragraph (c) is the tax payable under this Part for the year of averaging.

Application

(2) Subsection (1) applies only in the case of an individual whose chief source of income throughout the averaging period was from fishing or farming.

Tax for year of averaging

(3) For the purposes of this Act, where the tax payable by an individual under this Part for the year of averaging would, but for subsection (2), be an amount determined under subsection (1), the tax that would have been payable by the individual under the federal Act for the year of averaging, within the meaning of section 3 of this Act, had no election been made by him or her under section 119 of the federal Act for that year, shall be deemed to be the tax payable under the federal Act by the individual for the year of averaging.

**Overpayment of tax**

(4) Where this section, except subsection (3), is applicable to the computation of a taxpayer's tax for a taxation year and the aggregate of the taxes payable under this Part for the preceding years exceeds the aggregate of the provincial taxes as determined under paragraph (1)(b) for the years in the averaging period, the excess shall be deemed to be an overpayment made when the notice of assessment for the year of averaging was mailed.

**Applicability of assessment, interest and penalty provisions**

(5) The provisions of this Part relating to the assessment of tax, interest and penalties apply with such modifications as the circumstances require to an assessment whereby, for the purposes of this section, it is determined by the Commissioner that no tax is payable under this Part for the year of averaging or that an overpayment has been made as described in subsection (4).

**Revocation of election under federal Act**

(6) Where an election for a year of averaging filed under subsection 119(1) of the federal Act has been revoked by the taxpayer in accordance with subsection 119(5) of the federal Act, subsection (1) of this section is not applicable in determining the tax payable under this Part for the year of averaging.

**Exemptions from tax**

**8.** No tax is payable under this Act by any person for a period when that person

- (a) was exempt from tax by virtue of subsection 149(1) of the federal Act, or
- (b) was a non-resident-owned investment corporation,

and any definition or description in the federal Act applying to any such person applies with such modifications as the circumstances require for the purposes of this Act unless otherwise provided.

**MUTUAL FUND TRUSTS AND CORPORATIONS****Capital gains refunds to mutual fund trusts**

**9.** (1) Where an amount is to be refunded to a mutual fund trust in respect of a taxation year, under section 132 of the federal Act, the Commissioner shall, subject to subsection (2), at such time and in such manner as is provided in section 132 of the federal Act, refund to the mutual fund trust an amount (referred to in this section as its "capital gains refund" for the year) equal to that proportion of the amount of the refund for the year calculated under subsection 132(1) of the federal Act that

- (a) the highest percentage for the year;
- is of
- (b) the percentage referred to in paragraph (a) of the description of A in the definition of "refundable capital gains on hand" in subsection 132(4) of the federal Act for the year.

#### Limitation of trust's refund to proportion of Nunavut income to total income

(2) For the purpose of computing the capital gains refund under subsection (1) for a mutual fund trust in respect of a taxation year, where the mutual fund trust had income earned in the taxation year outside Nunavut, the refund shall be that proportion of the capital gains refund for the year, otherwise determined under subsection (1), that the trust's income earned in the taxation year in Nunavut is of its income for the year.

#### Commissioner's right to apply refund against tax liability of trust

(3) Instead of making a refund that might otherwise be made under subsection (1), the Commissioner may, where the mutual fund trust is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the trust of that action.

#### Definitions

(4) In this section,

"income earned in the taxation year in Nunavut" has the same meaning as in section 3; (*revenu gagné au Nunavut dans l'année d'imposition*)

"income earned in the taxation year outside Nunavut" has the same meaning as in section 3; (*revenu gagné à l'extérieur du Nunavut dans l'année d'imposition*)

"income for the year" has the same meaning as in section 3; (*revenu pour l'année*)

"mutual fund trust" has the same meaning as in section 132 of the federal Act. (*fiducie de fonds mutuels*)

S.Nu. 2001,c.14,s.2(1)(g),7.

#### Capital gains refund to mutual fund corporations

**10.** (1) Where an amount is to be refunded to a mutual fund corporation in respect of a taxation year, pursuant to section 131 of the federal Act, the Commissioner shall, subject to subsection (2), at such time and in such manner as is provided in section 131 of the federal Act, refund to the corporation an amount (referred to in this section as its "capital gains refund" for the year) equal to that proportion of the amount of the refund for the year calculated under subsection 131(2) of the federal Act that

(a) the percentage referred to in subsection 4(1) of this Act for the year,

is of

(b) the percentage referred to in subparagraph 131(6)(d)(i) of the federal Act for the year.

#### Limitation of corporation's refund to proportion of Nunavut income to total income

(2) For the purpose of computing the capital gains refund under subsection (1) for a mutual fund corporation in respect of a taxation year, where

- (a) the mutual fund corporation's taxable income earned in the year in Nunavut,  
is less than
- (b) the mutual fund corporation's taxable income for the year,  
the refund shall be that proportion of the capital gains refund for the year, otherwise determined under subsection (1), that the amount determined under paragraph (a) is of the amount determined under paragraph (b).

#### Commissioner's right to apply refund against tax liability of corporation

(3) Instead of making a refund that might otherwise be made under subsection (1), the Commissioner may, where the mutual fund corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action.

#### Definitions

(4) In this section,

"mutual fund corporation" has the same meaning as in section 131 of the federal Act and includes an investment corporation within the meaning of subsection 130(3) of the federal Act; (*corporation de fonds mutuels*)

"taxable income earned in the year" has the same meaning as in section 4; (*revenu imposable gagné dans l'année*)

"taxable income earned in the year in Nunavut" has the same meaning as in section 4. (*revenu imposable gagné dans l'année au Nunavut*)  
S.Nu. 2001,c.14,s.2(1)(g).

## DIVISION D – RETURNS, ASSESSMENTS, PAYMENT AND APPEALS

### RETURNS

#### Incorporation of federal provisions respecting returns, assessment and withholding

**11.** Sections 150, 150.1 and 151, subsections 152(1), (1.2) and (2) to (8) and 153(1) to (3) of the federal Act apply for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.8; S.N.W.T. 1995,c.4,s.4; S.N.W.T. 1998,c.12,s.3(1).

\* **See S.N.W.T. 1998,c.12,s.3(2) respecting the application of amendments to this section.**

#### Reassessment

**12.** (1) Where a collection agreement is in effect, notwithstanding that the normal reassessment period for a taxpayer in respect of a taxation year has elapsed, if the tax payable under Part I of the federal Act by the taxpayer for the year is reassessed, the Commissioner shall reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require.

## Redetermination

(2) Notwithstanding that the normal reassessment period has elapsed, the Commissioner may redetermine the amount considered under subsection 3.2(1) to be an overpayment on account of the taxpayer's liability under this Act in respect of a taxation year. R.S.N.W.T. 1988,c.19(Supp.),s.8; S.N.W.T. 1995,c.4,s.4; S.N.W.T. 1998,c.12,s.4(1).

**\* See S.N.W.T. 1998,c.12,s.4(2) respecting the application of amendments to this subsection.**

**13. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.8.**

**14. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.8.**

## Payment of tax by persons farming or fishing

**15.** (1) Subject to section 17, every individual whose chief source of income is farming or fishing, other than an individual to whom subsection 153(2) of the federal Act applies for the purposes of this Act, shall pay to the Commissioner in respect of each taxation year

- (a) on or before December 31 in the year, two-thirds of
  - (i) the amount estimated by the individual pursuant to section 151 of the federal Act, as it applies for the purposes of this Act, to be the tax payable under this Act by the individual for the year, or
  - (ii) the tax payable under this Act by the individual for the immediately preceding taxation year; and
- (b) on or before the individual's balance-due day for the year, the remainder of the individual's tax as estimated pursuant to section 151 of the federal Act, as it applies for the purposes of this Act.

**\* See S.N.W.T. 1995,c.4,s.5(2) respecting the application of amendments to this subsection.**

## Payment where collection agreement exists

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under paragraph 1(a) computed in respect of the same year as the amount is computed that the individual is liable to pay under paragraph 155(1)(a) of the federal Act. R.S.N.W.T. 1988,c.19(Supp.),s.9; S.N.W.T. 1995,c.4,s.5.

## Payment of tax by other individuals

**16.** (1) Subject to section 17, every individual, other than an individual to whom subsection 153(2) of the federal Act applies for the purposes of this Act or to whom section 15 applies, shall pay to the Commissioner in respect of each taxation year,

- (a) on or before March 15, June 15, September 15 and December 15 in the year, an amount equal to one-quarter of

- (i) the amount estimated by the individual pursuant to section 151 of the federal Act, as it applies for the purposes of this Act, to be the tax payable under this Act by the individual for the year, or
- (ii) the tax payable under this Act by the individual for the immediately preceding taxation year; and
- (b) on or before the individual's balance-due day for the year, the remainder of the tax estimated pursuant to section 151 of the federal Act, as it applies for the purposes of this Act.

**\* See S.N.W.T. 1995,c.4,s.6(2) respecting the application of amendments to this subsection.**

#### Payment where collection agreement exists

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under paragraph (1)(a) computed in respect of the same year as the amount is computed that the individual is liable to pay under paragraph 156(1)(a) of the federal Act. R.S.N.W.T. 1988,c.19(Supp.),s.10; S.N.W.T. 1995,c.4,s.6.

#### Where instalments not required

**17.** Where no federal instalments are required by virtue of section 156.1 of the federal Act for a particular taxation year, the requirements for payment by instalments under sections 15 and 16 are not applicable and the individual shall pay to the Commissioner, on or before the individual's balance-due day for the particular year, the individual's tax as estimated pursuant to section 151 of the federal Act, as it applies for the purposes of this Act, for the particular year. S.N.W.T. 1995,c.4,s.7.

**\* See S.N.W.T. 1995,c.4,s.7(2) respecting the application of amendments to this section.**

#### Incorporation of federal provisions respecting payments by corporations

**18.** (1) Subsections 157(1), (2), (2.1) and (4) of the federal Act apply for the purposes of this Act.

#### Payments where collection agreement in effect

(2) Where a collection agreement is in effect, a corporation that pays amounts in respect of a taxation year computed under subparagraph 157(1)(a)(i), (ii) or (iii) of the federal Act and that is required to make payments under subsection 157(1) of the federal Act as it applies for the purposes of this Act shall pay amounts in respect of the year computed under the same subparagraph as it applies for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.12.

Incorporation of federal provisions respecting returns, payments and interest

**19.** Subsections 70(2) and 104(2), paragraph 104(23)(e), sections 158 to 160, subsections 160.1(1), (2.1), (3) and (4), sections 160.2 and 160.3 and subsections 161(1), (2), (4) to (7), (9) and (11) of the federal Act apply for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.13; S.N.W.T. 1995,c.4,s.8; S.N.W.T. 1998,c.12,s.5(1).

**\* See S.N.W.T. 1998,c.12,s.5(2) respecting the application of amendments to this section.**

Refund for tax credits

**20.** In applying subsection 160.1(1) of the federal Act for the purposes of this Act, "refund" includes a refund that arises by reason of a provision of this Act

- (a) that allows a taxpayer to deduct an amount from the tax payable under this Act; or
- (b) that deems an amount to have been paid by a taxpayer as or on account of the tax payable under this Act by him or her.

R.S.N.W.T. 1988,c.19(Supp.),s.13.

**\* See R.S.N.W.T. 1988,c.19(Supp.),s.15 respecting the application of amendments to this section.**

Amount on which instalment computed

**21.** Where a collection agreement is in effect and a taxpayer is deemed under subsection 161(4) of the federal Act to be liable to pay, in respect of his or her tax payable under Part I of the federal Act for a particular taxation year, a part or instalment computed by reference to an amount described in paragraph 161(4)(c) or (d) of the federal Act, notwithstanding subsection 161(4) of the federal Act as it applies for the purposes of this Act, the taxpayer shall be deemed for the purposes of subsection 161(2) of the federal Act, as it applies for the purposes of this Act, to be liable to pay, in respect of his or her tax payable under this Act for the particular year, a part or instalment computed by reference to the same paragraph, as it applies for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.14.

**\* See R.S.N.W.T. 1988,c.19(Supp.),s.15 respecting the application of amendments to this section.**

## PENALTIES

Incorporation of federal provisions respecting failure to file subsection 150(1) return

**22.** (1) Subsections 162(1) to (3), (5), (7) and (11) and section 235 of the federal Act apply for the purposes of this Act.

**\* See S.N.W.T. 1995,c.4,s.9(2) and (3) respecting the application of amendments to this subsection.**

Where collection agreement

(2) Where a collection agreement is in effect, the Commissioner may refrain from levying or may reduce a penalty provided in this section if the person who is liable to the penalty is required to pay a penalty pursuant to section 162 of the federal Act in respect of the same failure. R.S.N.W.T. 1988,c.19(Supp.),s.16; S.N.W.T. 1995,c.4,s.9.



## Incorporation of federal provisions respecting repeated failures

**23.** (1) Subsection 163(1), paragraph 163(2)(a) as it would apply without the references to subsection 120(2) of the federal Act therein, and subsections 163(2.1), (3) and (4) of the federal Act apply for the purposes of this Act.

**\* See S.N.W.T. 1995,c.4,s.9(4) respecting the application of amendments to this subsection.**

## Where collection agreement

(2) Where a collection agreement is in effect, the Commissioner may refrain from levying or may reduce a penalty provided in this section if the person who is liable to the penalty is required to pay a penalty pursuant to section 163 of the federal Act in respect of the same failure or the same false statement or omission, as the case may be.

R.S.N.W.T. 1988,c.19(Supp.),s.16; S.N.W.T. 1995,c.4,s.9.

## Incorporation of federal provisions respecting late or deficient instalments

**23.1.** Section 163.1 of the federal Act applies for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.16; S.N.W.T. 1995,c.4,s.9.

## REFUND OF OVERPAYMENT

## Incorporation of federal provisions respecting refunds

**24.** (1) Subsections 164(1) to (1.31), (1.5), (2), (2.2), (2.3) and (3) to (7) of the federal Act apply for the purposes of this Act.

**\* See S.N.W.T. 1998,c.12,s.6(2) respecting the application of amendments to this subsection.**

## Refunds based on federal refunds

(2) Where a collection agreement is in effect and by reason of a decision referred to in subsection 164(4.1) of the federal Act a repayment of tax, interest or penalties under that Act for a taxation year is made to a taxpayer or any security accepted under that Act for such tax, interest or penalties is surrendered to the taxpayer, subsection 164(4.1) of the federal Act as it applies for the purposes of this Act applies to any overpayment of tax, interest or penalties under this Act for the year that arises by reason of the decision.

R.S.N.W.T. 1988,c.19(Supp.),s.17; S.N.W.T. 1995,c.4,s.10; S.N.W.T. 1998,c.12,s.6(1).

**\* See R.S.N.W.T. 1988,c.19(Supp.),s.18 respecting the application of amendments to this section.**

## OBJECTIONS TO ASSESSMENTS

## Incorporation of federal provisions respecting objections

**25.** Sections 165, 166.1 and 166.2 of the federal Act apply for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.19; S.N.W.T. 1995,c.4,s.11.

**\* See S.N.W.T. 1995,c.4,s.11(2) respecting the application of amendments to this section.**

## DIVISION E – APPEALS TO THE NUNAVUT COURT OF JUSTICE

Incorporation of federal provisions respecting appeals

**26.** (1) Section 169 of the federal Act applies for the purposes of this Act.

Subject-matter of appeal

(2) An appeal from an assessment under this Act may be taken in respect of any question relating,

- (a) in the case of an individual, to the determination of
  - (i) his or her residence for the purposes of this Act,
  - (ii) his or her income earned in the taxation year in Nunavut, as defined in section 2.1,
  - (iii) the amount of tax payable for a taxation year under this Part,
  - (iv) the amounts that, by subsection 3.3(4), (5) or (6) as they apply for the purposes of sections 3.1 to 3.4, are deemed to be the individual's adjusted income and the individual's adjusted earned income, and
- (b) in the case of a corporation, to the determination of
  - (i) its taxable income earned in the year in Nunavut as defined in subsection 4(2), or
  - (ii) the amount of tax payable for a taxation year based on the taxable income of the corporation for that year,

but no appeal from an assessment lies in respect of the computation of the tax payable under the federal Act as defined in section 2.1 or of the taxable income of a corporation.

Institution of appeal

(3) An appeal to the Nunavut Court of Justice shall be instituted by serving upon the Commissioner a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Clerk of the Nunavut Court of Justice.

Notice of appeal

(4) A notice of appeal shall be served upon the Commissioner by being sent by registered mail addressed to the deputy head.

Required particulars

(5) The taxpayer appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that the taxpayer intends to submit in support of his or her appeal.

Fee

(6) The taxpayer appealing shall pay to the Clerk of the Nunavut Court of Justice a fee of \$15 upon the filing of the copy of the notice of appeal with the Clerk.

R.S.N.W.T. 1988,c.19(Supp.),s.20; S.N.W.T. 1995,c.4,s.12,13; S.N.W.T. 1998,c.12,s.7; S.Nu. 2001,c.14,s.2(1)(h),(2)(a)(b),8.

## Commissioner's reply to notice

**27.** (1) The Commissioner shall, within 60 days from the day the notice of appeal is received, or within such further time as the Nunavut Court of Justice or a judge thereof may either before or after the expiration of that time allow, serve on the appellant and file in the Nunavut Court of Justice a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Commissioner intends to rely on.

## Court's discretion

(2) The Nunavut Court of Justice or a judge may, in its or his or her discretion, strike out a notice of appeal or any part thereof for failure to comply with subsection 26(5) and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

*Idem*

- (3) The Nunavut Court of Justice or a judge may, in its or his or her discretion,
- (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply; and
  - (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

*Idem*

(4) Where a notice of appeal is struck out for failure to comply with subsection 26(5) and a new notice of appeal is not filed as and when permitted by the Nunavut Court of Justice or a judge, the Nunavut Court of Justice or a judge thereof may, in its or his or her discretion, dispose of the appeal by dismissing it.

*Idem*

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the Nunavut Court of Justice or a judge within the time ordered, the Nunavut Court of Justice may dispose of the appeal *ex parte* or after a hearing, on the basis that the allegations of fact contained in the notice of appeal are true. S.N.W.T. 1995,c.4,s.12; S.Nu. 2001,c.14,s.2(2)(b).

## Effect of filing of material

**28.** (1) Upon the filing of the material referred to in sections 26 and 27, the matter shall be deemed to be an action in the Nunavut Court of Justice and, unless the Nunavut Court of Justice otherwise orders, ready for hearing.

## Court's discretion to allow further pleadings

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the Nunavut Court of Justice may direct.

- (3) **Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.21.**

**(4) Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.21.**

R.S.N.W.T. 1988,c.19(Supp.),s.21; S.N.W.T. 1995,c.4,s.12;  
S.Nu. 2001,c.14,s.2(2)(b).

Incorporation of federal provisions respecting irregularities, extension of time and hearings *in camera*

**29.** Sections 166, 167, 171 and 179 of the federal Act apply for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.22; S.N.W.T. 1995,c.4,s.14.

Practice and procedure of court

**30.** Except as provided in the regulations, the practice and procedure of the Nunavut Court of Justice, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 28 and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the Nunavut Court of Justice. S.N.W.T. 1995,c.4,s.12; S.Nu. 2001,c.14,s.2(2)(c).

**31. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.23.**

## PART II

### ADMINISTRATION AND ENFORCEMENT

#### ADMINISTRATION

Incorporation of federal provisions respecting administration, garnishment and proceedings to collect

**32.** Sections 220, 221.1, 224, 225.1 and 225.2 of the federal Act apply for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.24; S.N.W.T. 1995,c.4,s.15.

**\* See S.N.W.T. 1995,c.4,s.15(2) respecting the application of amendments to this section.**

Remission of territorial portion of federal tax remitted

**32.1.** Where, under the *Financial Administration Act* (Canada), remission is granted of any tax, interest or penalty paid under the federal Act by or for an individual, and where any tax, interest or penalty was paid by that individual under this Act in respect of the same circumstances that gave rise to the remission granted under the *Financial Administration Act* (Canada), the Commissioner may, if he or she considers that the circumstances are sufficiently similar and that a remission of any money paid under this Act should be granted either for the relief of extreme hardship or because the individual received incorrect advice from the Department of National Revenue, grant remission of all or any part of any tax, interest or penalty paid under this Act in such circumstances, and may authorize the repayment to the person so entitled of any amount remitted by the Commissioner in accordance with this section. S.N.W.T. 1998,c.3,s.3(1).

### Regulations

- 33.** (1) The Commissioner, on the recommendation of the Minister responsible for this Act, may make regulations
- (a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;
  - (b) providing in any case of doubt the circumstances in which, and extent to which, the federal regulations apply; and
  - (c) generally to carry out the purposes and the provisions of this Act.

### Federal regulations

(2) Except to the extent that they are inconsistent with any regulations made under subsection (1) or are expressed by any regulations made under subsection (1) to be inapplicable, the federal regulations made under section 221 of the federal Act apply with such modifications as the circumstances require for the purposes of this Act with respect to all matters enumerated in that section.

### *Statutory Instruments Act*

(3) A regulation made under this Act is a regulation to which the *Statutory Instruments Act* applies but, subject to subsection (5), has no effect unless it has been published as required in that Act.

### Publication of federal regulations

(4) Where a regulation made under the federal Act is applicable, with such modifications as the circumstances require, it has, subject to subsection (5), no effect for the purposes of this Act unless it has been published in the *Canada Gazette*.

### Retroactivity

(5) A regulation made under this Act or made under the federal Act and that is applicable, with such modifications as the circumstances require, when published as herein provided shall, if it so provides, be effective with reference to a period before it was published.

## ENFORCEMENT

### Incorporation of federal provision respecting recovery of taxes

**34.** Section 222 of the federal Act applies for the purposes of this Act.  
S.N.W.T. 1995,c.4,s.16.

### Incorporation of federal provisions respecting certificates

**35.** (1) Paragraph 223(1)(d) and subsections 223(2) to (4) of the federal Act apply for the purposes of this Act.

## Proceedings under section 223 of the federal Act

(2) Where a collection agreement is in effect, subsection (1) does not apply, but the Commissioner may proceed under section 223 of the federal Act for the purpose of collecting any amount payable under this Act by a taxpayer.

R.S.N.W.T. 1988,c.19(Supp.),s.25; S.N.W.T. 1995,c.4,s.16.

## Commissioner's warrant

**36.** The Commissioner may issue a warrant directed to the sheriff, for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant shall have the same force and effect as a writ of execution issued out of the court.

**37. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.26.**

## Incorporation of federal provisions respecting right of Commissioner to acquire taxpayer's property and right to money seized by police

**38.** Sections 224.2 and 224.3 of the federal Act apply for the purposes of this Act. S.N.W.T. 1995,c.4,s.17.

**39. Repealed, S.N.W.T. 1995,c.4,s.17.**

## Incorporation of federal provisions respecting seizure of chattels

**40.** Sections 225 and 225.1 of the federal Act apply for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.27; S.N.W.T. 1995,c.4,s.18; S.N.W.T. 1998,c.12,s.8.

## Incorporation of federal provisions respecting taxpayer's impending departure

**41.** Section 226 of the federal Act applies for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.28; S.N.W.T. 1995,c.4,s.18.

**\* See S.N.W.T. 1995,c.4,s.18 respecting the application of amendments to this section.**

## Incorporation of federal provisions respecting withheld money

**42.** (1) Subsections 227(1) to (5), (8), (8.2) to (9), (9.2), (9.4), (9.5) and (11) to (13) of the federal Act apply for the purposes of this Act.

## Assessment

(2) The Commissioner may assess

- (a) any person for any amount that has been deducted or withheld by that person under this Act or a regulation or pursuant to a provision of the federal Act or of the federal regulations that applies for the purposes of this Act, and
- (b) any person for any amount payable by that person pursuant to subsection 224(4), (4.1), 227(8), (8.2) to (9), (9.2), (9.4) or (9.5) or section 227.1 or 235 of the federal Act, as they apply for the purposes of this Act, or section 48,

and, where the Commissioner sends a notice of assessment to that person, sections 11 and 19 to 30 are applicable with such modifications as the circumstances require.

R.S.N.W.T. 1988,c.19(Supp.),s.29; S.N.W.T. 1995,c.4,s.18.

**\* See S.N.W.T. 1995,c.4,s.18(2) respecting the application of amendments to this paragraph.**

Incorporation of federal provisions respecting director's liability

**43.** Section 227.1 of the federal Act applies for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.30; S.N.W.T. 1995,c.4,s.18.

## GENERAL

Requirement of businesses to keep records and books

**44.** (1) Every person carrying on business in Nunavut and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account, including an annual inventory kept in the prescribed manner, at his or her place of business or residence in Canada or at such other place as may be designated by the Commissioner, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

Incorporation of federal provisions respecting books and records

(2) Subsections 230(2.1), (3), (4), (5), (6), (7) and (8), of the federal Act apply for the purposes of this Act.

**(3) Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.31.**

R.S.N.W.T. 1988,c.19(Supp.),s.31; S.Nu. 2001,c.14,s.2(1)(i).

Incorporation of federal provisions respecting inspections, etc.

**45.** Sections 231 to 231.5, 232, 233 and 236 of the federal Act apply for the purposes of this Act. R.S.N.W.T. 1988,c.19(Supp.),s.32.

**46. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.32.**

**47. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.32.**

Penalty relating to s.33

**48.** (1) Every person who fails to comply with a regulation made under paragraph 221(1)(d) or (e) of the federal Act as it applies by virtue of subsection 33(2) of this Act, is liable in respect of each failure to so comply to a penalty of \$10 a day for each day of default but not exceeding in all \$2,500.

*Idem*

(2) Every person who fails to comply with a regulation made under section 33 or incorporated by reference by virtue of subsection 33(2) is liable to a penalty of \$10 a day for each day of default but not exceeding in all \$2,500.

**49. Repealed, R.S.N.W.T. 1988,c.19(Supp.),s.33.**

## OFFENCES

## Offence and penalty

**50.** (1) Every person who fails to file a return as and when required by or under this Act or a regulation, or by or under a provision of the federal Act or of the federal regulations, as the provision applies for the purposes of this Act, or who fails to comply with any of subsections 153(1), 227(5) and 230(3), (4) and (6) and sections 231 to 231.5 and 232 of the federal Act, as it applies for the purposes of this Act, is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

- (a) a fine of not less than \$1,000 and not exceeding \$25,000; or
- (b) both the fine described in paragraph (a) and imprisonment for a term not exceeding 12 months.

## Incorporation of federal provision respecting compliance order

- (2) Subsection 238(2) of the federal Act applies for the purposes of this Act.

## Saving

(3) Where a person is convicted under this section for failure to comply with a provision of this Act or a regulation or a provision of the federal Act or of the federal regulations that applies for the purposes of this Act, he or she is not liable to a penalty under subsection 227(8), (8.5), (9) or (9.5) of the federal Act, as those subsections apply for the purposes of this Act, or under section 22 or 48 for the same failure unless he or she was assessed for that penalty or that penalty was demanded from him or her before the information or complaint giving rise to the conviction was laid or made.

R.S.N.W.T. 1988,c.19(Supp.),s.34; S.N.W.T. 1995,c.4,s.19.

## Incorporation of federal provision respecting specific penalties

**51.** Subsection 239(1) of the federal Act applies for the purposes of this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.35; S.N.W.T. 1995,c.4,s.20.

## Minister's right of action

**52.** Where a collection agreement is entered into and proceedings under section 238 or 239 of the federal Act are taken against any person, the Minister may take or refrain from any action against such person contemplated by section 50 or 51 of this Act, as the case may be.

## Revealing confidential information

**53.** (1) Every person who, while employed in the administration of this Act,

- (a) knowingly communicates or knowingly allows to be communicated to any person not legally entitled thereto any information obtained by or on behalf of the Commissioner for the purposes of this Act,



- (b) knowingly allows any person not legally entitled thereto to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Commissioner for the purposes of this Act, or
- (c) knowingly uses, other than in the course of his or her duties in connection with the administration or enforcement of this Act, any information obtained by or on behalf of the Commissioner for the purposes of this Act,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

#### Exceptions

(2) Subsection (1) does not apply to the communication of information between

- (a) the Minister and the Commissioner; or
  - (b) the Minister, acting on behalf of Nunavut, and the Commissioner or the Minister of Finance of the government of
    - (i) an agreeing province, or
    - (ii) a non-agreeing province to which an adjusting payment may be made under subsection 61(2).
- R.S.N.W.T. 1988,c.19(Supp.),s.36;  
S.Nu. 2001,c.14,s.2(1)(j).

Incorporation of federal provision respecting liability of officer or agent of corporation

**54.** Section 242 of the federal Act applies for the purposes of this Act.  
S.N.W.T. 1995,c.4,s.21.

Incorporation of federal provision respecting minimum penalties

**55.** Section 243 of the federal Act applies for the purposes of this Act.  
S.N.W.T. 1995,c.4,s.21.

## PROCEDURE AND EVIDENCE

Incorporation of federal provisions respecting evidence

**56.** (1) Subsections 244(1) to (5), (7) to (11), (13) to (17) and (20) of the federal Act apply for the purposes of this Act.

**\* See S.N.W.T. 1995,c.4,s.22(3) respecting the application of amendments to this subsection.**

Admissibility and weight of evidence

(2) Where a subsection referred to in subsection (1) provides that a document is evidence of a fact without anything in the context to indicate that the document is conclusive evidence, then, in any judicial proceedings, the document is admissible in evidence and the fact is deemed to be established in the absence of any evidence to the contrary.

(3) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(4) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(5) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(6) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(7) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(8) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(9) **Repealed, S.N.W.T. 1995,c.4,s.22.**

#### Judicial notice

(10) Judicial notice shall be taken of

- (a) all orders or regulations made under this Act, and
- (b) a collection agreement entered into under this Act or any agreement for the collection by Canada of the tax imposed under the income tax statute of an agreeing province,

without such orders, regulations or agreements being specially pleaded or proven.

(11) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(12) **Repealed, S.N.W.T. 1995,c.4,s.22.**

#### Day of receiving mailed document

(12.1) For the purposes of this Act, anything sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it is sent on the day that it was mailed except that a remittance of an amount deducted or withheld as required by this Act or a regulation or by a provision of the federal Act or of the federal regulations that applies for the purposes of this Act as it applies for the purposes of this Act, shall be deemed to have been remitted on the day it is received by the Commissioner.

(13) **Repealed, S.N.W.T. 1995,c.4,s.22.**

(14) **Repealed, S.N.W.T. 1995,c.4,s.22.**

#### Evidence as to collection agreement

(15) A document purporting to be a collection agreement entered into under this Act or an agreement with Canada for the collection of tax imposed under the income tax statute of an agreeing province that is

- (a) published in the *Canada Gazette*, or
- (b) certified as such by or on behalf of
  - (i) the Commissioner, or

(ii) the Provincial Treasurer or the Minister of Finance of the appropriate agreeing province,  
is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents thereof.

**(16) Repealed, S.N.W.T. 1995,c.4,s.22.**

Commissioner's certificate *prima facie* proof of facts therein

(17) Every certificate by the Commissioner as to

- (a) a taxpayer's tax payable under the federal Act as defined in section 2.1,
- (b) a taxpayer's income for the year as defined in section 2.1, or
- (c) the taxable income of a corporation,

is admissible in evidence as proof, in the absence of evidence to the contrary, that a taxpayer's tax payable under the federal Act, his or her income for the year or the taxable income of a corporation, as the case may be, is in the amount set out therein.

Issue or execution of documents where collection agreement exists

(18) Where a collection agreement is entered into, any document or certificate that is executed or issued by the Minister, the Deputy Minister of the Department of National Revenue for Taxation, or an official of the Department of National Revenue on behalf or in place of the Commissioner or an officer of the Department of Finance, shall be deemed, for all purposes of this Act, to be executed or issued by the Commissioner or the Department of Finance, as the case may be. R.S.N.W.T. 1988,c.19(Supp.),s.37; S.N.W.T. 1995,c.4,s.22; S.Nu. 2001,c.14,s.9.

### PART III

#### COLLECTION OF TAX

#### COLLECTION AGREEMENT

Commissioner's right to enter into agreement

**57.** (1) The Commissioner may, on behalf of the Government of Nunavut, enter into a collection agreement with the Government of Canada under which the Government of Canada will collect taxes payable under this Act on behalf of the Government of Nunavut and will make payments to the Government of Nunavut in respect of the taxes so collected, in accordance with such terms and conditions as the collection agreement prescribes.

Amendments

(2) The Commissioner may, on behalf of the Government of Nunavut, enter into an agreement amending the terms and conditions of a collection agreement entered into under subsection (1).

#### Minister's powers where agreement exists

(3) Where a collection agreement is entered into, the Minister, on behalf of, or as agent for, the Commissioner, may employ all the powers, and perform all the duties of the Commissioner under this Act, and exercise any discretion that the Commissioner has under this Act including the discretion to refuse to permit the production in judicial or other proceedings in Nunavut of any document that is not, in the opinion of the Minister, in the interests of public policy to produce.

#### Deputy Minister's powers

(4) Where a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation of Canada may

- (a) employ all the powers and perform the duties of the Minister and exercise any discretion that the Minister has under subsection (3) or otherwise under this Act; and
- (b) designate officers of his or her department to carry out such functions, duties and powers as are similar to those that are exercised by them on his or her behalf under the federal Act.  
S.N.W.T. 1995,c.4,s.23; S.Nu. 2001,c.14,s.2(1)(k).

#### Minister's right of appropriation

**58.** (1) A collection agreement may provide that where any payment is received by the Minister on account of tax payable by a taxpayer for a taxation year under this Act, the federal Act or an income tax statute of another agreeing province, or under any two or more of such statutes, the payment so received may be applied by the Minister towards the tax payable by the taxpayer under any such statute in such manner as may be specified in the agreement, notwithstanding that the taxpayer directed that the payment be applied in any other manner or made no direction as to its application.

#### Effect of appropriation

(2) Any payment or part thereof applied by the Minister in accordance with a collection agreement towards the tax payable by a taxpayer for a taxation year under this Act

- (a) relieves the taxpayer of liability to pay such tax to the extent of the payment or part thereof so applied; and
- (b) shall be deemed to have been applied in accordance with a direction made by the taxpayer.

#### No action against persons withholding tax

**59.** Where a collection agreement is in effect and an amount is remitted to the Commissioner under subsection 153(1) of the federal Act, as it applies for the purposes of this Act, on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province,

- (a) no action lies for recovery of such amount by that individual; and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act.

R.S.N.W.T. 1988,c.19(Supp.),s.38.

#### Liability to remit reduced by tax withheld outside Nunavut

**60.** (1) Where a collection agreement is entered into, an individual resident in Nunavut on the last day of the taxation year is not required to remit any amount on account of tax payable by him or her under this Act for the taxation year to the extent of the amount deducted or withheld on account of his or her tax for that year under the income tax statute of another agreeing province.

#### Overpayment by excessive withholding or deduction

(2) Where the total amount deducted or withheld on account of tax payable under this Act and under the income tax statute of another agreeing province by an individual resident in Nunavut on the last day of the taxation year to whom subsection (1) applies exceeds the tax payable by him or her under this Act for that year, section 24 applies in respect of such individual as though the excess were an overpayment under this Act. S.Nu. 2001,c.14,s.2(1)(l).

#### Definitions

**61.** (1) In this section,

"adjusting payment" means a payment, calculated in accordance with this section, made by or on the direction of Nunavut to a non-agreeing province; (*paiement de rajustement*)

"amount deducted or withheld" does not include any refund made in respect of that amount; (*montant déduit ou retenu*)

"non-agreeing province" means a province that is not an agreeing province. (*province non participante*)

#### Adjusting payments

(2) Where, in respect of a taxation year, a non-agreeing province is authorized to make a payment to Nunavut that, in the opinion of the Commissioner, corresponds to an adjusting payment, the Commissioner may make an adjusting payment to that non-agreeing province and enter into any agreement that may be necessary to carry out the purposes of this section.

#### Adjusting payments where collection agreement exists

(3) Where a collection agreement is entered into, the adjusting payment that may be made pursuant to subsection (2) may be made by the Government of Canada where it has agreed to act on the direction of the Commissioner as communicated to the Minister.

#### Amount of adjusting payment

(4) The adjusting payment to be made under this section shall be in an amount that is equal to the aggregate of the amounts deducted or withheld under section 153 of the federal Act, as it applies for the purposes of this Act, in respect of the tax payable for a taxation year by individuals who

- (a) file returns under the federal Act;
- (b) are taxable thereunder in respect of that year; and
- (c) are resident on the last day of that year in the non-agreeing province to which the adjusting payment is to be made.

#### No recovery of amounts deducted

(5) Where an adjusting payment is to be made and there has been an amount deducted or withheld under subsection 153(1) of the federal Act, as it applies for the purposes of this Act, on account of the tax for a taxation year of an individual who is taxable under the federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

- (a) no action lies for the recovery of such amount by that individual; and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act.

#### Liability to remit reduced by amount deducted or withheld by non-agreeing province

(6) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, an individual resident in Nunavut on the last day of the taxation year is not required to remit any amount on account of tax payable by him or her under this Act for the taxation year to the extent of the amount deducted or withheld on account of his or her income tax for that year under the law of that non-agreeing province.

#### Overpayment by excessive withholding or deduction

(7) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year and the total amount deducted or withheld on account of tax payable under this Act and on account of tax payable under the law of the non-agreeing province by an individual resident in Nunavut on the last day of the taxation year to whom subsection (6) applies exceeds the tax payable by him or her under this Act for that year, section 24 of this Act applies in respect of such individual as though the excess were an overpayment under this Act.

#### Effect of Government of Canada making adjusting payment on Nunavut's behalf

(8) Where a collection agreement is entered into and the Government of Canada has agreed in respect of a taxation year to carry out the direction of the Commissioner and to make an adjusting payment on behalf of Nunavut, the adjusting payment

- (a) shall be made out of any moneys that have been collected on account of tax under this Act for any taxation year, and
- (b) shall be the amount calculated by the Minister to be the amount required to be paid under subsection (4),

and the payment thereof discharges any obligation the Government of Canada may have with respect to the payment to Nunavut of any amount deducted or withheld under section 14 to which subsection (5) applies. R.S.N.W.T. 1988,c.19(Supp.),s.39; S.N.W.T. 1995,c.4,s.24; S.Nu. 2001,c.14,s.2(1)(l).

### Enforcement of judgments

**62.** (1) A judgment of a superior court of an agreeing province under that province's income tax statute, including any certificate registered in such superior court in a manner similar to that provided in subsection 223(2) of the federal Act, as it applies for the purposes of this Act, may be enforced in the manner provided in the *Reciprocal Enforcement of Judgments Act* and shall be deemed to be a judgment to which that Act applies.

### Registration

(2) For the purposes of subsection (1), where a judgment of a superior court of an agreeing province is sought to be registered under the *Reciprocal Enforcement of Judgments Act*, the judgment shall be registered notwithstanding that it is established that one or more of the provisions of subsection 2(4) of that Act apply.

### Regulations to enable enforcement

(3) For the purposes of subsection (1), the Commissioner, on the recommendation of the Minister responsible for this Act, may make regulations to enable the enforcement in Nunavut of judgments in respect of taxes in agreeing provinces.  
S.N.W.T. 1995,c.4,s.25; S.Nu. 2001,c.14,s.2(1)(l).