



BILL NO. 177

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
54 Elizabeth II, 2005*

An Act Respecting Certain Financial Measures

CHAPTER 6
ACTS OF 2005

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2005**

The Honourable Peter G. Christie
Minister of Finance

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting Certain Financial Measures

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Financial Measures (2005) Act*.

PART I

AGRICULTURE AND MARKETING ACT

2 (1) Subsection 12(1) of Chapter 6 of the Revised Statutes, 1989, the *Agriculture and Marketing Act*, as amended by Chapter 24 of the Acts of 2004, is further amended by adding “but within ninety days of the financial year end of the society” immediately after “society” in the last line.

(2) Subsection 12(4) of Chapter 6 is repealed and the following subsection substituted:

(4) The financial year of every agricultural society shall end on the thirty-first day of October in each year unless otherwise prescribed by by-law.

PART II

EQUITY TAX CREDIT ACT

3 Subclause 2(k)(iv) of Chapter 3 of the Acts of 1993, the *Equity Tax Credit Act*, is repealed and the following subclause substituted:

(iv) in any other case, the issue of shares, as defined in subclause (i) of clause (h), to the number of eligible investors, prescribed by regulation, specified in the application for registration of the corporation to an eligible investor at any time between the date of registration and the date of expiration of the certificate of registration.

4 Subsection 17(1) of Chapter 3 is repealed and the following subsections substituted:

(1) The Minister may, at any time after a certificate of registration has been issued,

(a) monetarily penalize a labour-sponsored venture-capital corporation;

(b) charge a refundable penalty to a labour-sponsored venture-capital corporation;

(c) restrict the sales of a labour-sponsored venture-capital corporation for such time and on such conditions as the Minister determines; or

(d) revoke the certificate of registration of a labour-sponsored venture-capital corporation,

if, in the opinion of the Minister, the registered labour-sponsored venture-capital corporation has not complied with this Act or the regulations or the spirit and intent of this Act and the regulations, or has caused any transaction or event prescribed by regulation to occur.

(1A) The Governor in Council may determine the maximum penalties that may be imposed pursuant to clause (a) or (b) of subsection (1).

5 Clause 18(3)(d) of Chapter 3 is repealed.

6 Section 25 of Chapter 3 is repealed and the following Section substituted:

25 The Minister may extend, with or without conditions, the date of expiration of the certificate of registration of a specified issue or the time limits for meeting the investment requirements of the regulations and may grant an extension notwithstanding that the time limit to be extended has expired.

PART III

INCOME TAX ACT

7 Subsection 10(3) of Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out “by an individual for a taxation year” in the second and third lines and substituting “for a taxation year by an individual who was resident in the Province on the last day of the taxation year”.

8 Chapter 217 is further amended by adding immediately after Section 12 the following Section:

12A (1) For the purpose of computing the tax payable under this Part for a taxation year by an individual there may be deducted in respect of each child of the individual who has not attained the age of eighteen years before the end of the year an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year;

B is the lesser of

(a) \$150; and

(b) the total of all amounts paid by the individual or by the individual's spouse or common-law partner, for the registration of the child in a designated sport or recreational activity.

(2) Where more than one individual is entitled to a deduction under subsection (1) in respect of the same child,

(a) the total of all amounts so deductible for the year shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that child if that individual were the only individual entitled to deduct an amount for the year because of that subsection for the child; and

(b) if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

(3) The extended meaning of “child” in subsection 252(1) of the Federal Act applies for the purpose of this Section.

(4) The Governor in Council may make regulations designating sport or recreational activities for the purpose of this Section.

9 Section 13 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000 and amended by Chapter 3 of the Acts of 2001, is further amended by adding immediately after subsection (2) the following subsection:

(3) Notwithstanding subsection (1) and (2), for the purpose of computing the tax payable under this Part for a taxation year by an individual who is entitled to a deduction under subsection 118.3(2) of the Federal Act for the taxation year in respect of a person referred to in that subsection there may be deducted the amount, if any, by which

(a) the amount deductible under subsection (1) in computing that person’s tax payable under this Part for the taxation year, or that would be so deductible if the person were liable under Section 5 to pay tax for the taxation year,

exceeds

(b) the amount of that person’s tax payable under this Part for the taxation year if the person were liable under Section 5 to pay tax for the taxation year, computed before any deductions under this Division other than deductions referred to in Sections 10 and 18.

10 Section 16 of Chapter 217 is repealed and the following Section substituted:

16 (1) For the purpose of computing an individual’s tax payable under this Part for a taxation year, there may be deducted the lesser of

(a) the individual’s unused tuition and education credits at the end of the preceding taxation year; and

(b) the amount that would be the individual’s tax payable under this Part for the year if no amount were deductible under this Part, other than an amount deductible under this Section and any of Sections 10, 12A, 13 and 18.

(2) An individual’s unused tuition and education tax credits at the end of a taxation year is the amount determined by the formula

$$A + (B - C) - (D + E)$$

where

A is the individual's unused tuition and education credits at the end of the preceding taxation year;

B is the total of all amounts each of which may be deducted under Sections 14 and 15 in computing the individual's tax payable under this Part for the year;

C is the lesser of the value of B and the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under this Part, other than an amount deductible under this Section and any of Sections 10, 12A, 13 and 18;

D is the amount that the individual may deduct under subsection (1) for the year; and

E is the tuition and education tax credits transferred for the year by the individual to the individual's spouse, common-law partner, parent or grandparent.

(3) For the purpose of determining the amount that may be deducted under subsection (1) for a taxation year that begins after 2003 by an individual who was not resident in the Province on the last day of the preceding taxation year, the individual's unused tuition and education tax credits at the end of the preceding taxation year is equal to the amount that would be the individual's unused tuition and education tax credits at the end of the preceding taxation year as determined under section 118.61 of the Federal Act if the percentage applied under sections 118.5 and 118.6 of the Federal Act had been the appropriate percentage for the year instead of the appropriate percentage as defined in the Federal Act.

(4) For the purpose of subsection (3), the amounts mentioned in that subsection may be used only to the extent that they have not been used in claiming a credit pursuant to section 118.5, 118.6 or 118.61 of the Federal Act, or in determining credits transferred pursuant to section 118.81 of the Federal Act, for any taxation year.

(5) For the purpose of determining the amount that may be deducted under subsection (1) for a taxation year that begins after 2003, the unused tuition and education tax credits of an individual who resided in the Province at the end of the 2003 taxation year is equal to 8.79 / 9.77 of the amount that would be the individual's unused tuition and education tax credits at the end of the 2003 taxation year if this Section were read without reference to this subsection.

11 Section 19 of Chapter 217 is repealed and the following Section substituted:

19 (1) For the purpose of computing the tax payable under this Part for a taxation year by an individual who, at any time in the year, is a married person or a person who is in a common-law partnership, other than an individual who, by reason of a breakdown of the individual's marriage or common-law partnership, is living separate and apart from the individual's spouse or common-law partner at the end of the year and for a period of ninety days commencing in the year, there may be deducted an amount determined by the formula

$$A + B - C$$

where

A is the tuition and education tax credits transferred for the year by the spouse or common-law partner to the individual;

B is the total of all amounts each of which is deductible under subsections 10(2) and (3) and Section 13 in computing the spouse's or common-law partner's tax payable under this Part for the year, or that would be so deductible if the spouse or common-law partner were liable under Section 5 to pay tax for the year; and

C is the amount, if any, by which

(a) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year, or that would be so payable if the spouse or common-law partner were liable under Section 5 to pay tax for the year, if no amount were deductible under this Part, other than an amount deductible under clause 10(1)(c) and Sections 12A, 16 and 18,

exceeds

(b) the lesser of

(i) the total of all amounts that may be deducted under Sections 14 and or 15 in computing the spouse's or common-law partner's tax payable under this Part for the year, or that would be so deductible if the spouse or common-law partner were liable under Section 5 to pay tax for the year, and

(ii) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year, or that would be so payable if the spouse or common-law partner were liable under Section 5 to pay tax for the year, if no amount were deductible under this Part, other than an amount deductible under Sections 10, 12A, 13, 16 and 18.

(2) Where for a taxation year a parent or grandparent of an individual, other than an individual in respect of whom the individual's spouse or common-law partner deducts an amount for the year under clause 10(1)(a) or subsection 19(1) of this Act, section 118 or 118.8 of the Federal Act or similar provisions of an income tax statute of another province of Canada, is the only person designated in writing by the individual for the year for the purpose of this subsection, and no other person is designated for the year for the purpose of section 118.9 of the Federal Act, or similar provision of an income tax statute of another province of Canada, there may be deducted in computing the tax payable under this Part for the year by the parent or grandparent, as the case may be, the tuition and education tax credits transferred for the year by the individual to the parent or grandparent, as the case may be.

(3) In this Section, the tuition and education tax credits transferred for a tuition year by a person to an individual is the lesser of

(a) the amount determined by the formula

A - B

where

A is the lesser of

(i) the total of all amounts that may be deducted under Sections 14 or 15 in computing the person's tax payable under this Part for the year, or that would be so deductible if the person were liable under Section 5 to pay tax for the year; and

(ii) the amount obtained by multiplying \$5,000 by the appropriate percentage for the year; and

B is the amount that would be the person's tax payable under this Part for the year, or that would be so payable if the person were liable under Section 5 to pay tax for the year, if no amount were deductible under this Part, other than an amount deductible under Sections 10, 12A, 13, 16 and 18; and

(b) the amount for the year that the person designates in writing for the purpose of subsection (1) or (2).

12 Section 21 of Chapter 217 is repealed and the following Section substituted:

21 For the purpose of computing the tax payable under this Part for a taxation year by an individual who was resident in the Province on the last day of the taxation year, there may be deducted an amount equal to 38.5% of any amount required by paragraph 82(1)(b) of the Federal Act to be included in computing the individual's income for the year.

13 Section 22 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out "for a taxation year" in the second line and substituting "who was resident in the Province on the last day of the taxation year".

14 Chapter 217 is further amended by adding immediately after Section 32 the following Section:

32A Where an individual resided in the Province on the last day of a taxation year but had income earned in the taxation year outside the Province, the individual may deduct from the amount of tax otherwise payable for the taxation year as determined under Section 32 an amount determined by the formula

$$A \times B / C$$

where

A is the total of all amounts each of which is deductible under subsection 10(3) and Sections 21 or 22 by the individual for the taxation year;

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

C is the individual's income for the year.

15 Section 35 of Chapter 217 is repealed and the following Section substituted:

35 (1) In this Section,

(a) “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

- (i) the individual, or
- (ii) the individual’s qualified relation for 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;

(b) “eligible individual” for a taxation year means an individual, other than a trust, who is resident in the Province on December 31st of that year, and is

- (i) married or in a common-law partnership,
- (ii) a parent of a child, or
- (iii) nineteen years of age or over;

(c) “qualified dependant” of an individual for a taxation year means a person who is

- (i) a person in respect of whom the individual or the individual’s qualified relation for the year is the only person who deducts an amount under Section 10 for the year, or
- (ii) a child of the individual residing with the individual at the end of the year,

and who is not

- (iii) an eligible individual for the year,
- (iv) the qualified relation of an individual for the year, or
- (v) a person in respect of whom an amount is deemed under this Section to be paid by any other individual for the year;

(d) “qualified relation” of an individual for a taxation year means the person who, at the end of the year, is the individual’s cohabiting spouse or common-law partner, within the meaning assigned by section 122.6 of the Federal Act.

(2) For the purpose of this Section, the income of a person who is non-resident at any time in a taxation year is deemed to be equal to the amount that would, if the person were resident in Canada throughout the year, be the person’s income for the year.

(3) Notwithstanding subsection (1), a person is deemed not to be an eligible individual for a taxation year or a qualified relation or qualified dependant of an individual for a taxation year where the person

(a) is, at the end of the year, a person described in paragraph 149(1)(a) or (b) of the Federal Act; or

(b) is, at the end of the year, confined to a prison or similar institution and has been so confined for a period of, or periods the total of which in the year was more than, six months.

(4) Subject to subsection (5), where an eligible individual for a taxation year files with the individual's return of income under this Act for the year a prescribed form, containing prescribed information, the amount, if any, by which the total of

(a) \$300;

(b) \$300 for a person who is the qualified relation of the individual for the year;

(c) \$300, where the individual has no qualified relation for the year and is entitled to deduct an amount for the year under subsection 118(1) of the Federal Act by reason of paragraph (b) thereof in respect of a qualified dependant of the individual for the year; and

(d) the product obtained when \$165 is multiplied by the number of qualified dependants of the individual for the year, other than a qualified dependant in respect of whom an amount is included by reason of clause (c) in computing an amount deemed to be paid pursuant to this subsection for the year,

exceeds

(e) 5% of the amount, if any, by which

(i) the individual's adjusted income for the year,

exceeds

(ii) \$15,000,

may be deducted from tax otherwise payable under this Act for a taxation year.

(5) Notwithstanding subsection (4), where an individual is a qualified relation of another individual for a taxation year, only one of those individuals may apply under subsection (4) for the year.

(6) The Governor in Council may make regulations adjusting annually the dollar amounts set out in subsection (4).

16 (1) Subsection 37(4) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out "A" in the first line and substituting "Notwithstanding Section 51 and subsection 62(1), a".

(2) Section 37 is further amended by adding immediately after subsection (5) the following subsection:

(6) For greater certainty, subsection 9(2) of the *Equity Tax Credit Act* applies for the purpose of this Section.

17 (1) Subsection 38(4) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out “A” in the first line and substituting “Notwithstanding Section 51 and subsection 62(1), a”.

(2) Section 38 is further amended by adding immediately after subsection (4) the following subsection:

(5) For greater certainty, subsection 18A(2) of the *Equity Tax Credit Act* applies for the purpose of this Section.

18 Subsection 39(1) of Chapter 217 is repealed and the following subsection substituted:

(1) Where an amount is to be refunded to a trust in respect of a taxation year pursuant to section 132 of the Federal Act, the Minister shall, subject to subsection (2), at such time and in such manner as is provided in that section, refund to the trust an amount, in this Section referred to as its “capital gains refund” for the year, equal to the amount obtained by multiplying the provincial percentage for the year times the amount of the refund for the year calculated under subsection 132(1) of the Federal Act.

19 Section 40 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by adding immediately after subsection (3) the following subsections:

(4) For the purpose of subsection (2), where a corporation is a member of a partnership, the amount determined pursuant to paragraph 125(1)(a) of the Federal Act, in relation to a corporation for each taxation year, shall be the amount that would be the corporation’s specified partnership income within the meaning of subsection 125(7) of the Federal Act if the amounts expressed in dollars in the description of “M” in the definition of “specified partnership income” in that subsection were read as

(a) for the first amount, “\$350,000” and, for the second amount, “\$959” for the period commencing on April 1, 2005, and ending on March 31, 2006; and

(b) for the first amount, “\$400,000” and, for the second amount, “\$1,096” for the period commencing on April 1, 2006.

(5) The business limit otherwise determined under section 125 of the Federal Act shall be deemed for the purpose of subsection (2) to be \$350,000 for the period commencing on April 1, 2005.

(6) Notwithstanding subsection (5), the business limit otherwise determined under section 125 of the Federal Act shall be deemed for the purpose of subsection (2) to be \$400,000 for the period commencing on April 1, 2006.

20 Section 41 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000 and amended by Chapter 3 of the Acts of 2001, Chapter 5 of the Acts of 2002 and Chapter 4 of the Acts of 2003, is further amended by adding immediately after subsection (19) the following subsections:

(20) A qualifying corporation that wishes to claim a tax credit under this Part in respect of a taxation year must file, with the return of income filed by the corporation under Section 51 for that taxation year, an application for the tax credit in the form, and containing the information, required by the Commissioner of Customs and Revenue.

(21) A qualifying corporation is not entitled to a tax credit under this Part in relation to its eligible expenditure in a taxation year unless, within eighteen months after the end of the taxation year, the corporation files the form containing the information required under subsection (20).

21 Section 43 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by

(a) striking out “has claimed” in the seventh line and substituting “may claim”; and

(b) striking out “of the deduction claimed” in the eighth and ninth lines of clause (b) and substituting “deductible”.

22 Subsection 47(2) of Chapter 217 is repealed and the following subsections substituted:

(2) Where the corporation meets the prescribed criteria, there may be deducted from tax otherwise payable by the corporation an amount equal to the lesser of

(a) the sum of

(i) 32.5% of the eligible salaries paid after December 31, 1999, and before April 11, 2000, to residents of the Province,

(ii) for film production activity undertaken in an eligible geographic area of the Province as prescribed by regulation,

(A) 35% of the eligible salaries paid after April 10, 2000, and before 2005, to residents of the Province, and

(B) 40% of the eligible salaries paid on or after January 1, 2005, and before 2016 to residents of the Province, and

(iii) for film production activity undertaken otherwise than in an eligible geographic area, 30% of the eligible salaries paid after April 10, 2000, and before 2005, and 35% of the eligible salaries paid on or after January 1, 2005, and before 2016 to residents of the Province; or

(b) 16.25% of the total production costs of the eligible film in the case of subclause (a)(i), 17.5% in the case of paragraph (a)(ii)(A), 20% in the case of paragraph (a)(ii)(B) or 15% in the case of subclause (a)(iii) incurred after April 10, 2000, and before January 1, 2005 and 17.5% after December 31, 2004, and before 2016.

(2A) A corporation may be eligible for an additional frequent filmer credit of 5% of the eligible salaries of an eligible film if

- (a) the principal photography for the film commenced on or after January 1, 2005;
- (b) the date of commencement of principal photography is preceded by the commencement of the principal photography for two other eligible films within the seven hundred and thirty days prior to the date referred to in clause (a);
- (c) the principal photography is completed before 2016;
- (d) the principal owner for each of the three films is the same person or group of persons; and
- (e) the film satisfies the eligibility criteria prescribed by regulation.

23 (1) Subsection 71(1) of Chapter 217 is repealed and the following subsection substituted:

(1) Every corporation, other than a corporation described in paragraphs (a) or (c) in the definition of “financial institution” in subsection 181(1) or subsection 181.1(3) of the Federal Act, that has a permanent establishment in the Province in a taxation year ending after March 31, 1997, shall pay a tax under this Part for the taxation year equal to

(a) where the aggregate of the corporation’s taxable capital for the year, as determined under subsection (4), and the taxable capital for the year of all related corporations is less than ten million dollars

(i) 0.5% of the taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are before April 1, 2004, is of three hundred and sixty-five,

(ii) 0.6% of taxable capital employed in the Province for the years as determined under subsection (2) multiplied by the amount that the number of days in the year that are after March 31, 2004 but before July 1, 2005, is of three hundred and sixty-five,

(iii) 0.55% of taxable capital employed in the Province for the years as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2005 but before July 1, 2006, is of three hundred and sixty-five,

(iv) 0.5% of taxable capital employed in the Province for the years as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2006 but before July 1, 2007, is of three hundred and sixty-five,

(v) 0.45% of taxable capital employed in the Province for the years as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2007 but before July 1, 2008, is of three hundred and sixty-five,

(vi) 0.4% of taxable capital employed in the Province for the years as determined under subsection (2) multiplied by the

amount that the number of days in the year that are after June 30, 2008, is of three hundred and sixty-five; or

(b) where the aggregate of the corporation's taxable capital for the year, as determined under subsection (4), and the taxable capital for the year of all related corporations is ten million dollars or more

(i) 0.25% of the taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are before April 1, 2004, is of three hundred and sixty-five,

(ii) 0.3% of the taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are after March 31, 2004 but before July 1, 2005, is of three hundred and sixty-five,

(iii) 0.275% of taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2005 but before July 1, 2006, is of three hundred and sixty-five,

(iv) 0.25% of taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2006 but before July 1, 2007, is of three hundred and sixty-five,

(v) 0.225% of taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2007 but before July 1, 2008, is of three hundred and sixty-five, and

(vi) 0.2% of taxable capital employed in the Province for the year as determined under subsection (2) multiplied by the amount that the number of days in the year that are after June 30, 2008, is of three hundred and sixty-five.

(2) Subsection 71(7) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000 and amended by Chapter 5 of the Acts of 2002 and Chapter 4 of the Acts of 2003, is further amended by

(a) striking out "March 31, 2006" in the third line and substituting "June 30, 2009"; and

(b) striking out "April 1, 2006" in the sixth line and substituting "July 1, 2009".

24 Section 77 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000 and amended by Chapter 5 of the Acts of 2002 and Chapter 4 of the Acts of 2003, is further amended by striking out "2006" in the last line and substituting "2009".

25 Chapter 217 is further amended by adding immediately after Section 80 the following Section:

- 80A (1) In this Section,
- (a) “avoidance transaction” means a transaction
 - (i) that, but for this Section, would result, directly or indirectly, in a tax benefit, or
 - (ii) that is part of a series of transactions, which series, but for this Section, would result, directly or indirectly, in a tax benefit, but does not include a transaction that may reasonably be considered
 - (iii) to have been undertaken or arranged primarily for *bona fide* purposes, or
 - (iv) to be a transaction that would not result, directly or indirectly, in a misuse of the provisions of this Act or an abuse having regard to the provisions of this Act, other than this Section, read as a whole;
 - (b) “*bona fide* purposes” does not include transactions undertaken or arranged primarily for one or more of the following:
 - (i) to obtain a tax benefit,
 - (ii) to reduce, avoid or defer a tax, or another amount payable as or in respect of tax, under any other federal or provincial Act,
 - (iii) to increase a refund of tax, or of another amount in respect of tax, under any other federal or provincial Act;
 - (c) “tax benefit” means
 - (i) a reduction, avoidance or deferral of tax, or of another amount, payable under this Act,
 - (ii) an increase in a refund of tax, or of another amount, under this Act;
 - (d) “tax consequences” to a person means
 - (i) the amount of the person’s
 - (A) income for the year, within the meaning of Section 7,
 - (B) loss,
 - (C) taxable income,
 - (D) taxable income earned in Canada,
 - (E) income earned in the taxation year in the Province, within the meaning of Section 7,
 - (F) income earned in the taxation year outside the Province, within the meaning of Section 7, or
 - (G) taxable income earned in the year in the Province, within the meaning of Section 40, or

(ii) any amount, other than an amount referred to in sub-clause (i), that is payable or refundable to the person under this Act or that is relevant for the purposes of determining any other amount referred to in this Section;

(e) “transaction” includes an arrangement or event.

(2) Where a transaction is an avoidance transaction, the tax consequences to a person must be determined in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this Section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

(3) Without limiting subsection (2),

(a) any amount deducted in computing an amount referred to in the definition of “tax consequences” in subsection (1) may be allowed or disallowed in whole or in part;

(b) any deduction referred to in clause (a) or any other amount used in determining an amount payable or refundable under this Act may be allocated to any person;

(c) the nature of any payment or other amount may be recharacterized; and

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored,

in determining the tax consequences to a person in a manner that is reasonable in the circumstances in order to deny a tax benefit that would, but for this Section, result, directly or indirectly, from an avoidance transaction.

(4) Where a notice of assessment, reassessment or additional assessment reflecting the application of subsection (2) to a transaction has been sent to a person, or a notice of determination has been sent to the person, any other person is entitled, within one hundred and eighty days after the date of the mailing of that notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2) or otherwise make a determination respecting returns of income, assessments of tax, withholdings of tax or reassessments of tax.

(5) On receipt of a request by a person under subsection (4), the Minister shall consider the request and make an assessment, reassessment, additional assessment or a determination with respect to the person, notwithstanding the expiry of any time limits, except that an assessment, reassessment, additional assessment or a determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (4).

(6) The tax consequences to any person, after the application of this Section, may only be determined through a notice of assessment, reassessment or additional assessment or determination under Section 51 or 52.

PART IV

MUNICIPAL GRANTS ACT

26 Subsection 4(2) of Chapter 302 of the Revised Statutes, 1989, the *Municipal Grants Act*, as amended by Chapter 7 of the Acts of 1994-95 and Chapter 9 of the Acts of 2003, is further amended by striking out “forty” in the second line and substituting “fifty”.

PART V

PROVINCIAL FINANCE ACT

27 Section 35 of Chapter 365 of the Revised Statutes, 1989, the *Provincial Finance Act*, as enacted by Chapter 29 of the Acts of 1994, is amended by striking out “Retirement” in the third line and substituting “Management”.

28 Section 36 of Chapter 365, as enacted by Chapter 29 of the Acts of 1994, is amended by striking out “Retirement” in the sixth line and substituting “Management”.

29 Sections 62A, 62AA and 62B of Chapter 365 are repealed and the following Section substituted:

62A (1) The Public Debt Management Fund is hereby established for the purchase or sale of securities of the Province by the Minister for the sound and efficient management of the public debt.

(2) The Governor in Council may from time to time, direct the Minister to

(a) pay into the Public Debt Management Fund such sum or sums as the Governor in Council may deem necessary;

(b) pay out of the Public Debt Management Fund such sum or sums as the Governor in Council deems necessary to pay or retire debentures, securities or other debt instruments of the Province.

(3) All extraordinary revenues that accrue to the Province in any fiscal year must be paid into the Public Debt Management Fund.

(4) In this Section, “extraordinary revenue” means revenue that is not typical for a government reporting entity, not included in the annual budget of the Province or would not normally be expected to become a typical revenue source and that is designated as extraordinary revenue by the Minister.

30 Chapter 365 is further amended by adding immediately after Section 76 the following Section:

76A (1) The annual revenue, in an amount not to exceed that as set out for each year below, which would otherwise be recognized under generally accepted accounting principles with respect to the receipt of an offset payment in each year, as a result of an arrangement between the Government of Canada and the Province on offshore revenues, shall not be recognized for the purposes of Sections 76, 77 and 78:

- (a) fiscal year 2005-2006 - fifty-seven million one hundred thousand dollars;
- (b) fiscal year 2006-2007 - ninety-three million dollars;
- (c) fiscal year 2007-2008 - one hundred eighty-nine million dollars;
- (d) fiscal year 2008-2009 - two hundred seven million dollars;
- (e) fiscal year 2009-2010 - one hundred fifty-one million dollars;
- (f) fiscal year 2010-2011 - ninety-two million dollars.

(2) The annual revenue, in an amount equal to no more than eight hundred thirty million dollars less the sum of all annual revenues not recognized under subsection (1), which would be otherwise recognized in the fiscal year 2011-2012 under generally accepted accounting principles with respect to the receipt of an offset payment as a result of an arrangement between the Government of Canada and the Province on offshore revenues shall not be recognized for the purposes of Sections 76, 77 and 78.

31 The Schedule to Chapter 365 is repealed and the following Schedule substituted:

SCHEDULE

Governmental Units

Acadia Coal Company Limited Fund
 AgraPoint International Inc.
 AgriTECH Park Inc.
 Annapolis Valley District Health Authority
 Annapolis Valley Housing Authority
 Annapolis Valley Regional School Board
 Art Gallery of Nova Scotia
 Bioscience Enterprise Centre Incorporated
 Cape Breton District Health Authority
 Cape Breton Island Housing Authority
 Cape Breton Victoria Regional School Board
 Capital District Health Authority
 Check Inns Limited
 Chignecto-Central Regional School Board
 Coal Research Agreement Fund
 Cobequid Housing Authority
 Colchester East Hants Health Authority
 Conseil scolaire acadien provincial
 Consolidated Fund
 CorFor Capital Repairs and Replacements Fund
 Crown Land Mine Remediation Fund
 Crown Land Silviculture Fund
 Cumberland Health Authority
 Debt Retirement Fund
 Eastern Mainland Housing Authority
 Environmental Trust Fund
 Gaming Addiction Treatment Trust Fund
 Guysborough Antigonish-Strait Health Authority
 Habitat Conservation Fund
 Halifax Regional School Board
 Industrial Expansion Fund
 Insured Prescription Drug Plan Trust Fund
 Izaak Walton Killam Health Centre

Law Reform Commission
Mainstream 1992 Fund
Maritime Fall Fair Association
Metropolitan Regional Housing Authority
Muggah Creek Remediation Fund
Nova Scotia Arts Council
Nova Scotia Blueberry Institute Fund
Nova Scotia Business Incorporated
Nova Scotia Community College
Nova Scotia Community College Foundation
Nova Scotia Coordinate Referencing System Trust Fund
Nova Scotia Crop and Livestock Insurance Commission
Nova Scotia E911 Cost Recovery Fund
Nova Scotia Farm Loan Board
Nova Scotia Film Development Corporation
Nova Scotia Fisheries and Aquaculture Development Fund
Nova Scotia Gaming Foundation
Nova Scotia Government Acadian Bursary Program Fund
Nova Scotia Government Fund Limited
Nova Scotia Harness Racing Incorporated
Nova Scotia Health Research Foundation
Nova Scotia Housing Development Corporation
Nova Scotia Hurricane Juan Recovery Fund
Nova Scotia Innovation Corporation
Nova Scotia Legal Aid Commission
Nova Scotia Market Development Initiative Fund
Nova Scotia Municipal Finance Corporation
Nova Scotia Power Finance Corporation
Nova Scotia Primary Forest Products Marketing Board
Nova Scotia School Boards Association
Nova Scotia School Insurance Exchange
Nova Scotia School Insurance Program Association
Nova Scotia Utility and Review Board
Novapet Inc
P3 Schools Capital and Technology Refresh Fund
Partnership Trust Fund
Pictou County Health Authority
Provincial Drug Distribution Program
Public Archives of Nova Scotia
Public Debt Management Fund
Public Debt Retirement Fund
Resource Recovery Fund Board Inc.
Rockingham Terminal Incorporated
Scotia Benefit Fund
Sherbrooke Restoration Commission
South Shore District Health Authority
South Shore Housing Authority
South Shore Regional School Board
South West Nova District Health Authority
Southwest Regional School Board
Species-at-risk Conservation Fund
Strait Regional School Board
Sustainable Forestry Fund
Sydney Environmental Resources Limited
Sydney Steel Corporation
Sydney Tar Ponds Agency
Sysco Decommissioning Fund
Trade Centre Limited
Tri-County Housing Authority
Tri-County Regional School Board
Upper Clements Family Theme Park Limited
Waterfront Development Corporation Limited
1402998 Nova Scotia Limited

3052155 Nova Scotia Limited
3839966 Canada Limited

Government Business Enterprises

Halifax-Dartmouth Bridge Commission
Highway 104 Western Alignment Corporation
Nova Scotia Gaming Corporation
Nova Scotia Liquor Corporation

PART VI

REVENUE ACT

32 Subsection 43(2) of Chapter 17 of the Acts of 1995-96, the *Revenue Act*, is amended by adding immediately after clause (b) the following clause:

- (ba) prohibiting or regulating the manufacturing, sale, purchase, distribution, use or possession of tear tape used in the packaging or marking of tobacco;
- (bb) respecting the keeping of records of any tear tape manufactured, sold, purchased, distributed, used or possessed;

33 Clause 48(g) of Chapter 17 is amended by adding immediately after subclause (ii) the following subclause:

- (ia) motor vehicles and other designated tangible personal property referred to in Part IIA of this Act,

34 Subsection 78(1) of Chapter 17, as amended by Chapter 3 of the Acts of 2001, is further amended by

- (a) adding “, tear tape” immediately after “property” in the fourth and fifth lines; and
- (b) adding “, tear tape” immediately after “property” in the eighth line.

35 Clause 79(2)(a) of Chapter 17, as amended by Chapter 3 of the Acts of 2001, is further amended by adding “or tear tape” immediately after “property” in the fifth line and in the sixth line.

36 Subsection 80(1) of Chapter 17, as amended by Chapter 3 of the Acts of 2001, is further amended by adding “or tear tape” immediately after “property” in the third line.

37 Subsection 89(3) of Chapter 17, as enacted by Chapter 3 of the Acts of 2001, is amended by striking out “manufacturer of tobacco, a wholesale vendor or an employee of a manufacturer of tobacco or a wholesale vendor” in the first, second and third lines and substituting

- (a) manufacturer of tobacco;
- (b) wholesale vendor;

- (c) person who manufactures, sells or distributes tear tape; or
- (d) employee of a person referred to in clauses (a) to (c),

PART VII

EFFECTIVE DATES

38 (1) This Act, except Sections 3 to 31, comes into force on such day as the Governor in Council orders and declares by proclamation.

(2) Sections 15 and 25 have effect on and after January 1, 2001, upon the Governor in Council so ordering by proclamation.

(3) Sections 7 and 9 to 14 have effect on and after January 1, 2004, upon the Governor in Council so ordering by proclamation.

(4) Section 5 has effect on and after May 20, 2004, upon the Governor in Council so ordering by proclamation.

(5) Section 22 has effect on and after January 1, 2005, upon the Governor in Council so ordering by proclamation.

(6) Sections 26 to 29 and 31 have effect on and after April 1, 2005, upon the Governor in Council so ordering by proclamation.

(7) Sections 3, 4, 6, 16 to 20, 23, 24 and 30 have effect on and after April 26, 2005, upon the Governor in Council so ordering by proclamation.

(8) Section 8 has effect on and after July 1, 2005, upon the Governor in Council so ordering by proclamation.

(9) Section 21 has effect on and after January 1, 2006, upon the Governor in Council so ordering by proclamation.
