

Draft Regulations Amending Various GST/HST Regulations, No. 2

DRAFT REGULATIONS AMENDING VARIOUS GST/HST REGULATIONS, NO. 2

PART 1

SELECTED LISTED FINANCIAL INSTITUTIONS ATTRIBUTION METHOD
(GST/HST) REGULATIONS

1. The heading before section 1 of the French version of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* is replaced by the following:

DÉFINITIONS ET INTERPRÉTATION

2. Sections 1 to 16 of the Regulations are replaced by the following:

Definitions	1. (1) The following definitions apply in these Regulations and in subsection 225.2(2) of the Act as adapted by these Regulations.
“Act” « Loi »	“Act” means the <i>Excise Tax Act</i> .
“defined benefits pension plan” « régime de pension à prestations déterminées »	“defined benefits pension plan” means the part of a pension plan that is in respect of benefits under the plan that are determined in accordance with a formula set forth in the plan, provided that the employer contributions under the part of the pension plan are not so determined.
“defined contribution pension plan” « régime de pension à cotisations déterminées »	“defined contribution pension plan” means the part of a pension plan that is not a defined benefits pension plan.
“distributed investment plan” « régime de placement à répartition »	“distributed investment plan” means an investment plan that is a mutual fund trust, a mutual fund corporation, a unit trust, a mortgage investment corporation, an investment corporation, a non-resident-owned investment corporation or a segregated fund of an insurer.
“employer resource” « ressource d’employeur »	“employer resource” has the same meaning as in subsection 172.1(1) of the Act.
“exchange-traded fund” « fonds coté en bourse »	“exchange-traded fund” means a distributed investment plan the units of which are listed or traded on a stock exchange or other public market (as defined in subsection 248(1) of the <i>Income Tax Act</i>).
“individual” « particulier »	“individual” includes the estate of a deceased individual.
“investment plan” « régime de placement »	“investment plan” means a listed financial institution described in subparagraph 149(1)(a)(vi) or (ix) of the Act, other than a trust governed by a registered retirement savings plan, a registered retirement income fund or a registered education savings plan.
“manager” « gestionnaire »	“manager” of an investment plan means (a) in the case of a pension entity of a pension plan, the administrator (as defined in subsection 147.1(1) of the <i>Income Tax Act</i>) of the pension plan; and

(b) in any other case, the person that has ultimate responsibility for the management and administration of the assets and liabilities of the investment plan.

“non-stratified investment plan”
« régime de placement non stratifié »

“non-stratified investment plan” means a distributed investment plan that is not a stratified investment plan.

“pension entity”
« entité de gestion »

“pension entity” means an investment plan that is a pension entity for the purposes of section 172.1 of the Act.

“pension plan”
« régime de pension »

“pension plan” has the same meaning as in subsection 172.1(1) of the Act.

“permanent establishment”
« établissement stable »

“permanent establishment”

(a) in respect of a corporation, means a permanent establishment as determined under subsection 400(2) of the *Income Tax Regulations*;

(b) in respect of an individual or a trust, means a permanent establishment as determined under subsection 2600(2) of the *Income Tax Regulations*;

(c) in respect of a qualifying partnership all the members of which are individuals or trusts, means a permanent establishment that would be a permanent establishment of the qualifying partnership under subsection 2600(2) of the *Income Tax Regulations* if the qualifying partnership were an individual; and

(d) in respect of a qualifying partnership to which paragraph (c) does not apply, means a permanent establishment that would be the permanent establishment of the qualifying partnership under subsection 400(2) of the *Income Tax Regulations* if the qualifying partnership were a corporation.

“plan member”
« participant »

“plan member” of an investment plan that is a private investment plan or a pension entity of a pension plan means an individual who has a right, either immediate or in the future and either absolute or contingent, to receive benefits under

(a) if the investment plan is an employee benefit plan, an employee life and health trust or a registered supplementary unemployment benefit plan, the investment plan;

(b) if the investment plan is a pension entity of a pension plan, the pension plan; or

(c) in any other case, the deferred profit sharing plan, the employee trust, the employees profit sharing plan or the retirement compensation arrangement, as the case may be, that governs the investment plan.

“private investment plan”
« régime de placement privé »

“private investment plan” means an investment plan that is an employee benefit plan, an employee life and health trust, a registered supplementary unemployment benefit plan or a trust governed by a deferred profit sharing plan, an employee trust, an employees profit sharing plan or a retirement compensation arrangement.

“provincial series”
« série provinciale »

“provincial series” for a fiscal year of a stratified investment plan means a series of the stratified investment plan that meets the following conditions throughout the fiscal year in respect of a particular province:

- (a) units of the series are permitted, under the laws of Canada or a province, to be sold or distributed in the particular province;
- (b) units of the series are not permitted, under the laws of Canada or a province, to be sold or distributed in any province other than the particular province;
- (c) pursuant to the terms of the prospectus, registration statement or other similar document for the series, or pursuant to the laws of Canada or a province, the conditions for a person owning or acquiring units of the series include
 - (i) that the person be resident in the particular province when the units are acquired, and
 - (ii) if the person ceases to be resident in the particular province on a particular day, that the units be sold, transferred or redeemed within a reasonable time after that day; and
- (d) the stratified investment plan's percentage for the series and for the particular province for the taxation year in which the immediately preceding fiscal year ends, or the percentage that would be the stratified investment plan's percentage for the series and for the particular province for that taxation year if the particular province were a participating province, is 90% or more.

"series"
« série »

"series"

- (a) of a trust, means a class of units of the trust; and
- (b) of a corporation, means a class of the capital stock of the corporation.

"specified resource"
« ressource déterminée »

"specified resource" means a specified resource within the meaning of subsection 172.1(5) of the Act.

"stratified investment plan"
« régime de placement stratifié »

"stratified investment plan" means a distributed investment plan, the units of which are issued in two or more series.

"unit"
« unité »

"unit"

- (a) in respect of a trust, means a unit of the trust;
- (b) in respect of a series of a trust, means a unit of the trust of that series;
- (c) in respect of a corporation, means a share of the capital stock of the corporation;
- (d) in respect of a series of a corporation, means a share of the capital stock of the corporation of that series; and
- (e) in respect of a segregated fund of an insurer, means an interest of a person, other than the insurer, in the segregated fund.

Further definitions —
Income Tax Act

(2) For the purposes of these Regulations, "deferred profit sharing plan", "employee benefit plan", "employee trust", "employees profit sharing plan", "investment corporation", "mortgage investment corporation", "mutual fund corporation", "mutual fund trust", "non-resident-owned investment corporation", "registered disability savings plan", "registered education savings plan", "registered retirement income fund", "registered retirement

savings plan”, “registered supplementary unemployment benefit plan”, “retirement compensation arrangement”, “TFSA” and “unit trust” have the same meanings as in subsection 248(1) of the *Income Tax Act*.

Meaning of
“qualifying
partnership”

2. For the purposes of these Regulations, a partnership is a “qualifying partnership” during a taxation year of the partnership if, at any time in the taxation year, the partnership has

(a) a member that has, at any time in the taxation year of the member in which the taxation year of the partnership ends, a permanent establishment in a particular participating province through which a business of the partnership is carried on; and

(b) a member (including a member referred to in paragraph (a)) that has, at any time in the taxation year of the member in which the taxation year of the partnership ends, a permanent establishment in a province other than the particular participating province through which a business of the partnership is carried on.

Definitions

3. (1) The following definitions apply in this section.

“designated
employee
benefit”
« prestation
designée »

“designated employee benefit” means a benefit from a group term life insurance policy or a private health services plan, as those terms are defined in subsection 248(1) of the *Income Tax Act* or from a group sickness or accident insurance plan..

“employee”
« employé »

“employee” means a current or former employee of an employer and includes an individual in respect of whom the employer has assumed responsibility for the provision of designated employee benefits as a result of the acquisition by the employer of a business in which the individual was employed.

“key employee”
« employé clé »

“key employee”, of an employer in respect of a taxation year, means an employee who

(a) was at any time in the taxation year or in a preceding taxation year, a specified employee (as defined in subsection 248(1) of the *Income Tax Act*) of the employer; or

(b) was an employee whose employment income for the purposes of the *Income Tax Act* from the employer in any two of the five taxation years preceding the year exceeded five times the Year’s Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the calendar year in which the employment income was earned.

Meaning of
“employee life
and health trust”

(2) For the purposes of these Regulations, a trust that is established for employees of one or more employers (each referred to in this subsection as a “participating employer”) is an “employee life and health trust” for a taxation year if, throughout the taxation year, it meets the following conditions:

(a) the only objects of the trust are

(i) to provide designated employee benefits to, or for the benefit of, employees of a participating employer, and

(ii) to benefit on a *pro rata* basis any remaining beneficiaries of the trust (excluding key employees) on wind-up;

(b) the trust is resident in Canada for the purposes of the *Income Tax Act*, determined without reference to section 94 of that Act;

(c) each beneficiary of the trust is

- (i) an employee of a participating employer,
 - (ii) an individual who is or was related to an employee of a participating employer, or
 - (iii) another employee life and health trust;
- (d) it cannot reasonably be considered, having regard to all circumstances, that the trust is maintained primarily for the benefit of one or more key employees of a participating employer;
- (e) the rights under the trust of each key employee of a participating employer are not more advantageous than the rights of each plan member of a class of beneficiaries under the trust, where
- (i) the plan members of the class represent at least 25% of all of the beneficiaries of the trust who are employees of the participating employer,
 - (ii) at least 75% of the plan members of the class are not key employees of the participating employer, and
 - (iii) the rights of each plan member of the class under the trust are identical;
- (f) the terms of the trust do not provide any rights to a participating employer or to any person who does not deal at arm's length with a participating employer, as a beneficiary or otherwise, except rights to designated employee benefits;
- (g) the trust is administered in accordance with its terms and objects;
- (h) the trust has a legal right to enforce payment of contributions to the trust; and
- (i) representatives of one or more participating employers do not constitute the majority of the trustees of the trust.

Permanent
establishment in
a province

4. For the purposes of these Regulations,

- (a) if a financial institution is a bank and if, at any time in a taxation year of the financial institution, the financial institution maintains a deposit or other similar account that is in the name of a person resident in a province or a loan that was made by the financial institution is outstanding and is either secured by land situated in a province or, if not secured by land, is owing by a person resident in a province, the following rules apply:
- (i) the financial institution is deemed to have a permanent establishment in the province throughout the taxation year, and
 - (ii) the following loans made by the financial institution and deposit and other similar accounts maintained by the financial institution are deemed to be loans and deposits of the permanent establishment referred to in subparagraph (i) and not of any other permanent establishment of the financial institution:
 - (A) outstanding loans secured by land situated in the province,
 - (B) outstanding loans, not secured by land, owing by persons resident in the province, and
 - (C) deposit and other similar accounts in the name of a person resident in the province;

(b) if a financial institution is an insurer that, at any time in a taxation year of the financial institution, is insuring a risk in respect of property ordinarily situated in a province or in respect of a person resident in a province, the financial institution is deemed to have a permanent establishment in the province throughout the taxation year;

(c) if a financial institution is a trust and loan corporation, a trust corporation or a loan corporation and if, at any time in a taxation year of the financial institution, the financial institution conducts business (other than business in respect of loans) in a province or a loan that was made by the financial institution is outstanding and is either secured by land situated in a province or, if not secured by land, is owing by a person resident in a province, the financial institution is deemed to have a permanent establishment in the province throughout the taxation year;

(d) if a financial institution is a segregated fund of an insurer, the financial institution is deemed to have a permanent establishment in a province throughout a taxation year of the financial institution if, at any time in the taxation year,

(i) the insurer is qualified, under the laws of Canada or a province, to sell units of the financial institution in the province, or

(ii) a person resident in the province holds one or more units of the financial institution;

(e) if a financial institution is a distributed investment plan (other than a segregated fund of an insurer), the financial institution is deemed to have a permanent establishment in a province throughout a taxation year of the financial institution if, at any time in the taxation year,

(i) the financial institution is qualified, under the laws of Canada or a province, to sell or distribute units of the financial institution in the province, or

(ii) a person resident in the province holds one or more units of the financial institution;
and

(f) if a financial institution is a private investment plan or a pension entity of a pension plan and, at any time in a taxation year of the financial institution, a plan member of the financial institution is resident in a province, the financial institution is deemed to have a permanent establishment in the province throughout the taxation year.

Permanent
establishment
throughout a
taxation year

5. For the purposes of these Regulations, a financial institution has a permanent establishment in a province throughout a taxation year of the financial institution if the financial institution has a permanent establishment in the province at any time in the taxation year.

Residence of a
person

6. For the purposes of these Regulations and despite subsection 132.1(1) of the Act, a person resident in Canada is resident in the province

(a) if the person is an individual, where the person's principal mailing address in Canada is located;

(b) if the person is a corporation or a partnership, where the person's principal business in Canada is located;

(c) if the person is a trust governed by a registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a registered disability savings plan or a TFSA, where the principal mailing address in Canada of the annuitant of the registered retirement savings plan or registered retirement income fund, of the subscriber

of the registered education savings plan or of the holder of the registered disability savings plan or TFSA is located;

(d) if the person is a trust, other than a trust described in paragraph (c), where the trustee's principal business in Canada is located or, if the trustee is not carrying on a business, where the trustee's principal mailing address in Canada is located; and

(e) in any other case, where the person's principal business in Canada is located or, if the person is not carrying on a business, where the person's principal mailing address in Canada is located.

Class of shares issued in series

7. A reference in these Regulations to a "class" is to be read, with any necessary modifications, as a reference to a "series of the class" in relation to a corporation that has issued shares of a class of its capital stock in one or more series.

PART 1

PRESCRIBED FINANCIAL INSTITUTIONS

Definition of "unrecoverable tax amount"

8. (1) For the purposes of this Part, "unrecoverable tax amount" for a reporting period of a person means the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is an amount that would be included in the total for A in subsection 225.2(2) of the Act, read without reference to any adaptation made pursuant to Part 5, for the reporting period, if the person were a selected listed financial institution throughout the reporting period; and

B is the total of all amounts, each of which is an amount that would be included in the total for B in subsection 225.2(2) of the Act, read without reference to any adaptation made pursuant to Part 5, for the reporting period, if the person were a selected listed financial institution throughout the reporting period.

Qualifying small investment plan

(2) For the purposes of this Part, an investment plan (other than a distributed investment plan) is a qualifying small investment plan for a particular fiscal year of the investment plan if

(a) where the particular fiscal year is the first fiscal year of the investment plan, the amount determined by the following formula for each reporting period of the investment plan included in the particular fiscal year is equal to or less than \$10,000:

$$A \times (365/B)$$

where

A is the unrecoverable tax amount for the reporting period, and

B is the number of days in the reporting period; or

(b) in any other case, the amount determined by the following formula is equal to or less than \$10,000:

$$A \times (365/B)$$

where

A is the total of all amounts, each of which is an unrecoverable tax amount for a reporting period of the investment plan included in the fiscal year of the investment plan (in this paragraph referred to as the “preceding fiscal year”) that precedes the particular fiscal year, and

B is the number of days in the preceding fiscal year.

Investment plan **9.** For the purposes of paragraph 149(5)(g) of the Act, an employee life and health trust is a prescribed person.

Adaptation of subsection 225.2(1) **10.** In determining if a financial institution is a selected listed financial institution throughout a reporting period in a fiscal year that ends in a taxation year of the financial institution, the portion of subsection 225.2(1) of the Act before paragraph (a) is adapted to be read without reference to the words “and the preceding taxation year”.

Selected listed financial institution — listed financial institutions **11.** (1) For the purpose of paragraph 225.2(1)(d) of the Act, a financial institution is a prescribed financial institution throughout a reporting period in a particular fiscal year that ends in a taxation year of the financial institution if

(a) the financial institution

(i) has, at any time in the taxation year, a permanent establishment in a participating province and has, at any time in the taxation year, a permanent establishment in any other province, or

(ii) is a qualifying partnership during the taxation year; and

(b) where the financial institution is a qualifying small investment plan for the particular fiscal year,

(i) subject to section 13, the financial institution

(A) was a selected listed financial institution throughout, and was not a qualifying small investment plan for, either one of the two fiscal years of the financial institution immediately preceding the particular fiscal year, and

(B) was not a selected listed financial institution throughout the third fiscal year of the financial institution immediately preceding the particular fiscal year, or

(ii) the financial institution has made an election under subsection 12(1) that is in effect throughout the particular fiscal year.

Investment plans **(2)** If a financial institution is an investment plan, paragraphs 225.2(1)(a) to (c) of the Act do not apply in determining if the financial institution is a selected listed financial institution throughout a reporting period in a fiscal year that ends in a taxation year of the financial institution.

Election **12.** (1) If an investment plan is, or reasonably expects to be, a qualifying small investment plan for a fiscal year and no application by the financial institution under subsection 13(1) in respect of the fiscal year has been approved by the Minister, the investment plan may make an election for the purposes of subparagraph 11(1)(b)(ii) that is effective from the first day of the fiscal year.

Form of election **(2)** An election made under subsection (1) by an investment plan shall

- (a) be made in prescribed form containing prescribed information;
- (b) set out the first fiscal year of the investment plan during which the election is to be in effect; and
- (c) be filed with the Minister in prescribed manner on or before the first day of the fiscal year referred to in paragraph (b).

Cessation (3) An election made under subsection (1) by a person ceases to have effect on the day that is the earliest of

- (a) the first day of the first fiscal year of the person for which the person does not meet the requirement set out in paragraph 11(1)(a);
- (b) the first day of the fiscal year of the person in which the person ceases to be an investment plan; and
- (c) the day on which a revocation of the election becomes effective.

Revocation (4) An investment plan that has made an election under subsection (1) may revoke the election, effective on the first day of a fiscal year of the investment plan that begins at least three years after the election became effective or such earlier day as the Minister may allow on application by the person, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective.

Application for small investment plan status **13.** (1) An investment plan may apply to the Minister to not have subparagraph 11(1)(b)(i) apply in determining if the investment plan is a selected listed financial institution for any reporting period in a particular fiscal year of the investment plan and for any reporting period in the fiscal year of the investment plan immediately following the particular fiscal year.

Authorization (2) On receipt of an application made by an investment plan under subsection (1) in respect of a particular fiscal year of the investment plan and the fiscal year of the investment plan immediately following the particular fiscal year, the Minister shall, within 90 days of that receipt, consider the application and, if it is reasonable, based on the information in the possession of the Minister, to expect that the investment plan will be a qualifying small investment plan for those two fiscal years, approve the application or, in any other case, refuse the application, and shall, within that time limit, notify the investment plan in writing of the decision.

Form and manner of application (3) An application made by an investment plan under subsection (1) shall be made in prescribed form containing prescribed information and shall be filed with the Minister in prescribed manner on or before the day that is 90 days before the first day of the first fiscal year to which the application applies or any later day that the Minister may allow on application by the person.

PART 2

PERCENTAGE FOR A PARTICIPATING PROVINCE

INTERPRETATION

Definitions **14.** (1) The following definitions apply in this Part.

“attribution point”
« moment d’attribution »

“attribution point” in respect of an investment plan, or in respect of a series of an investment plan, for a taxation year in which a particular fiscal year of the investment plan ends means

(a) if no election under section 51 is in effect throughout the particular fiscal year in respect of the investment plan or series, as the case may be,

(i) if the investment plan is a distributed investment plan (other than an exchanged-traded fund) or a pension entity of a defined contribution pension plan, September 30 of the particular fiscal year,

(ii) if the investment plan is an exchange-traded fund, each of September 30 of the particular fiscal year and one or more, as determined by the investment plan, of March 31, June 30 and December 31 of the particular fiscal year,

(iii) if the investment plan is a pension entity of a defined benefits pension plan, the last day on which calculations of the actuarial liabilities of the plan have been completed in the particular fiscal year and the three immediately preceding fiscal years of the investment plan or, if no such day exists, September 30 of the particular fiscal year, and

(iv) in any other case, the last day on which all or substantially all of the data required to calculate the investment plan’s percentage for each participating province for the particular fiscal year is reasonably available to the investment plan in the particular fiscal year and the immediately preceding fiscal year of the investment plan or, if no such day exists, September 30 of the particular fiscal year; and

(b) if an election under section 51 is in effect throughout the particular fiscal year in respect of the investment plan or series,

(i) if the election specifies that attribution points are to be quarterly, each of March 31, June 30 and September 30 of the particular fiscal year and December 31 of the immediately preceding fiscal year,

(ii) if the election specifies that attribution points are to be monthly, each of the last day of each month in the twelve-month period ending on September 30 of the particular fiscal year,

(iii) if the election specifies that the attribution points are to be weekly, each of the Fridays in the twelve-month period ending on September 30 of the particular fiscal year, and

(iv) if the election specifies that the attribution points are to be daily, each of the days in the twelve-month period ending on September 30 of the particular fiscal year.

“gross revenue”
« recettes brutes »

“gross revenue” of a selected listed financial institution for a period means the amount that would be the gross revenue of the financial institution for the period for the purposes of the *Income Tax Act* if the financial institution were a taxpayer under that Act and if every reference in that Act to a taxation year of the financial institution were read as a reference to that period.

“particular period”
« période donnée »

“particular period” means

(a) in applying this Part for the purpose of the description of C in subsection 225.2(2) of the Act (other than in determining the amount for C in that subsection for the purpose of subsection 228(2.2) of the Act), for the purpose of the description of A₆ in subsection 225.2(2) of the Act, as adapted by subsection 48(1), and for the purposes of the description of D in subparagraph 363(2)(a)(ii), the description of D in paragraph 363(2)(b), the description of F in subparagraph 363(2)(c)(ii) and the description of F in paragraph 363(2)(d) of the Act, a taxation year;

(b) in applying this Part in determining the amount for C in subsection 225.2(2) of the Act for the purpose of subsection 228(2.2) of the Act, a reporting period; and

(c) in applying this Part for the purpose of the description of D in subparagraph 237(5)(b)(ii) of the Act, a fiscal quarter.

“specified investor”
« investisseur déterminé »

“specified investor” in a particular investment plan means a person (other than an individual) that is not an investment plan or is a qualifying small investment plan for the purposes of Part 1, that holds units of the particular investment plan and that

(a) if the particular investment plan is a stratified investment plan, for each series of the particular investment plan in which the person holds units, holds units of the series with a total value of less than \$10,000,000; or

(b) if the particular investment plan is a non-stratified investment plan, holds units of the particular investment plan with a total value of less than \$10,000,000.

“total gross revenue”
« recettes brutes totales »

“total gross revenue” of a selected listed financial institution for a period means the portion of the gross revenue of the financial institution that is reasonably attributable to the permanent establishments of the financial institution in Canada for the period.

References to individual

(2) For the purposes of sections 19, 20 and 24, a reference to an individual includes a reference to a trust that is not an investment plan.

Rule of interpretation

15. Unless a contrary intention appears, words and expressions used in this Part have the same meanings as in Parts IV and XXVI of the *Income Tax Regulations*.

DETERMINATION OF THE ATTRIBUTION PERCENTAGE

Basic rules

16. (1) For the purposes of these Regulations, the description of C in subsection 225.2(2), the description of D in subparagraph 237(5)(b)(ii), the description of D in subparagraph 363(2)(a)(ii), the description of D in paragraph 363(2)(b), the description of F in subparagraph 363(2)(c)(ii) and the description of F in paragraph 363(2)(d) of the Act, a financial institution’s percentage for any participating province for a particular period is determined in accordance with this Part.

Basic rules — real-time

(2) For the purposes of these Regulations and the description of A₃ in subsection 225.2(2) of the Act, as adapted by subsection 48(1) or (2), a financial institution’s percentage for any participating province as of a particular day, or a financial institution’s percentage for any series and for any participating province as of a particular day, as the case may require, is determined in accordance with this Part.

Basic rules — series

(3) For the purposes of these Regulations and the description of A₆ in subsection 225.2(2) of the Act, as adapted by subsection 48(1), a financial institution’s percentage for any series

and for any participating province for a particular period is determined in accordance with this Part.

Member of a
partnership

17. For the purposes of this Part, if part of the operations of a selected listed financial institution that is a member of a partnership were conducted in partnership with one or more other persons during a particular period, the following rules apply:

- (a) the financial institution's gross revenue for the particular period shall not include any portion of the total gross revenue of the partnership; and
- (b) the salaries and wages paid in the particular period by the financial institution shall not include any portion of the salaries and wages paid to employees of the partnership.

Central
paymaster

18. (1) For the purposes of this Part, if an individual (referred to in this section as the "specified employee") is employed by a person (referred to in this section as the "employer") and performs a service in a particular province for the benefit of or on behalf of a person (referred to in this section as the "labour recipient") that is not the employer, an amount that may reasonably be regarded as equal to the amount of salary or wages earned by the specified employee for the service (referred to in this section as the "particular salary") is deemed to be salary paid by the labour recipient to an employee of the labour recipient in the particular period of the labour recipient in which the particular salary is paid if

- (a) at the time the service is performed,
 - (i) the labour recipient and the employer do not deal at arm's length, and
 - (ii) the labour recipient has a permanent establishment in the particular province;
- (b) the service
 - (i) is performed by the specified employee in the normal course of the specified employee's employment by the employer,
 - (ii) is performed for the benefit of or on behalf of the labour recipient in the ordinary course of a business carried on by the labour recipient, and
 - (iii) is of a type that could reasonably be expected to be performed by employees of the labour recipient in the ordinary course of the business referred to in subparagraph (ii); and
- (c) the amount is not otherwise included in the aggregate, determined for the purposes of this Part, of the salaries and wages paid by the labour recipient.

Deemed
payments —
permanent
establishment

(2) For the purposes of this Part, an amount deemed under subsection (1) to be salary paid by a labour recipient to an employee of the labour recipient for a service performed in a particular province is deemed to have been paid,

- (a) if the service was performed at one or more permanent establishments of the labour recipient in the particular province, to an employee of the permanent establishment or establishments; or
- (b) if paragraph (a) does not apply, to an employee of any other permanent establishment (as is reasonably determined in the circumstances) of the labour recipient in the particular province.

Particular salaries paid not included

(3) In determining under this Part the amount of salaries and wages paid in a particular period by an employer, there shall be deducted the total of all amounts each of which is a particular salary paid by the employer in the particular period.

Arm's length transactions

(4) Despite subparagraph (1)(a)(i), this section applies to a labour recipient and an employer that deal at arm's length if the Minister determines that the labour recipient and the employer have entered into an arrangement the purpose of which is to reduce, through the provision of services as described in subsection (1), the net tax for a reporting period of the employer, the net tax for a reporting period of the labour recipient or an amount required to be paid to the Receiver General under section 237 of the Act.

RULES FOR INDIVIDUALS

No permanent establishment in a participating province

19. (1) If, in a particular period, a selected listed financial institution that is an individual does not have a permanent establishment in a particular participating province, the financial institution's percentage for that province for the particular period is nil.

Determination of the percentage

(2) If, in a particular period, a selected listed financial institution that is an individual has a permanent establishment in a participating province, the financial institution's percentage for the participating province for the particular period is 1/2 of the total of

(a) the percentage that the gross revenue of the financial institution for the particular period reasonably attributable to the permanent establishments of the financial institution in the participating province is of the total gross revenue of the financial institution for the particular period, and

(b) the percentage that the total of all salaries and wages paid by the financial institution in the particular period to employees of the permanent establishments of the financial institution in the participating province is of the total of all salaries and wages paid by the financial institution in the particular period to employees of the permanent establishments of the financial institution in Canada.

Special rules for attribution of gross revenue

(3) For the purpose of applying subsection (2), and the definition "total gross revenue", in relation to a financial institution that is an individual, gross revenue for a particular period of the financial institution is reasonably attributable to a particular permanent establishment if that gross revenue would be attributable to that permanent establishment under the rules set out in subsection 2603(4) of the *Income Tax Regulations* if the financial institution were a taxpayer under the *Income Tax Act* and if the references in that subsection to a year and to gross revenue for the year were read as references to the particular period and to gross revenue for the particular period, respectively.

Fees

(4) For the purpose of subsection (2), if a financial institution pays a fee to another person under an agreement pursuant to which that other person or employees of that other person perform services for the financial institution that would normally be performed by employees of the financial institution, the fee so paid is deemed to be salary paid by the financial institution and that part of the fee that may reasonably be regarded as payment in respect of services rendered at a permanent establishment of the financial institution is deemed to be salary paid to an employee of the permanent establishment.

Commissions

(5) For the purpose of subsection (4), a fee paid by a financial institution does not include a commission paid to a person who is not an employee of the financial institution.

GENERAL RULES FOR CORPORATIONS

No permanent establishment in a participating province

20. (1) If, in a particular period, a selected listed financial institution that is a corporation does not have a permanent establishment in a particular participating province, the financial institution's percentage for the province for the particular period is nil.

Determination of the percentage

(2) Subject to this Part, if, in a particular period, a selected listed financial institution that is a corporation has a permanent establishment in a participating province, the financial institution's percentage for the participating province for the particular period is

(a) except where paragraph (b) or (c) applies, 1/2 of the total of

(i) the percentage that its gross revenue for the particular period reasonably attributable to its permanent establishments in the participating province is of its total gross revenue for the particular period, and

(ii) the percentage that the total of all salaries and wages paid by the financial institution in the particular period to employees of its permanent establishments in the participating province is of the total of all salaries and wages paid by the financial institution in the particular period to employees of its permanent establishments in Canada;

(b) if the total gross revenue for the particular period of the financial institution is nil, the percentage that the total of all salaries and wages paid by the financial institution in the particular period to employees of its permanent establishments in the participating province is of the total of all salaries and wages paid by the financial institution in the particular period to employees of its permanent establishments in Canada; and

(c) if the total of all salaries and wages paid in the particular period by the financial institution to employees of its permanent establishments in Canada is nil, the percentage that its gross revenue for the particular period reasonably attributable to its permanent establishments in the participating province is of its total gross revenue for the particular period.

Special rules for attribution of gross revenue

(3) For the purpose of applying subsection (2) and the definition "total gross revenue" in relation to a financial institution other than an individual, gross revenue for a particular period of the financial institution is reasonably attributable to a particular permanent establishment if that gross revenue would be attributable to that permanent establishment under the rules set out in subsections 402(4) and (4.1) and 413(1) of the *Income Tax Regulations* if the financial institution were a taxpayer under the *Income Tax Act* and if the references in those subsections to "taxation year" and "year" were read as references to "particular period".

Interest on various instruments

(4) For the purpose of subsection (2), "gross revenue" does not include interest on bonds, debentures or mortgages, dividends on shares of capital stock, or rentals or royalties from property that is not used in connection with the principal business operations of the financial institution.

Fees

(5) For the purpose of subsection (2), if a financial institution pays a fee to another person under an agreement pursuant to which that other person or employees of that other person perform services for the financial institution that would normally be performed by employees of the financial institution, the fee so paid is deemed to be salary paid in the particular period by the financial institution and that part of the fee that may reasonably be regarded as payment in respect of services rendered at a particular permanent establishment of the financial institution is deemed to be salary paid to an employee of that permanent establishment.

Commissions (6) For the purpose of subsection (5), a fee paid by a financial institution does not include a commission paid to a person who is not an employee of the financial institution.

INSURERS

Net premiums **21.** (1) In this section, “net premiums” of a selected listed financial institution for a particular period means the total of the gross premiums received by the financial institution in the particular period (other than consideration received for annuities) minus the total for the particular period of

- (a) premiums paid by the financial institution for reinsurance,
- (b) dividends or rebates paid or credited by the financial institution to policy-holders, and
- (c) rebates or returned premiums paid by the financial institution in respect of the cancellation of policies.

Determination of the percentage (2) If a selected listed financial institution is an insurer, the financial institution’s percentage for a participating province for a particular period in which it has a permanent establishment in the province is, despite subsections 19(2) and 20(2), the percentage that

- (a) the total of its net premiums for the particular period in respect of the insurance of risk in respect of property situated in the province and of its net premiums for the particular period in respect of the insurance of risk in respect of persons resident in the province

is of

- (b) the total of its net premiums for the particular period in respect of the insurance of risk in respect of property situated in Canada, and of its net premiums for the particular period in respect of the insurance of risk in respect of persons resident in Canada, that are included in computing its income for the purposes of Part I of the *Income Tax Act*.

Exclusions from net premiums (3) For the purposes of subsections (1) and (2), no amounts that relate to an insurance policy issued by a selected listed financial institution shall be included in the determination of the net premiums of the financial institution to the extent that

- (a) if the policy is a life or accident and sickness insurance policy (other than a group policy), the policy is issued in respect of an individual who at the time the policy becomes effective, is a non-resident individual;
- (b) if the policy is a group life or accident and sickness insurance policy, the policy relates to non-resident individuals who are insured under the policy;
- (c) if the policy is a policy in respect of real property, the policy relates to real property situated outside Canada; and
- (d) if the policy is a policy of any other kind, the policy relates to risks that are ordinarily situated outside Canada.

BANKS

Determination of the percentage **22.** (1) If a selected listed financial institution is a bank, the financial institution’s percentage for a particular period for a participating province in which the financial institution has a permanent establishment is, despite subsection 20(2), 1/5 of the total of

(a) the percentage that the total of all salaries and wages paid in the particular period by the financial institution to employees of its permanent establishments in the participating province is of the total of all salaries and wages paid in the particular period by the financial institution to employees of its permanent establishments in Canada, and

(b) four times the percentage that the total amount of loans and deposits of its permanent establishments in the participating province for the particular period is of the total amount of all loans and deposits of its permanent establishments in Canada for the particular period.

Amount of loans (2) For the purpose of subsection (1), the amount of loans for a particular period is the amount determined by the formula

$$A/B$$

where

A is the total of the amounts outstanding, on the loans made by the selected listed financial institution, at the close of business on the last day of each month that ends in the particular period; and

B is the number of months that end in the particular period.

Amount of deposits (3) For the purpose of subsection (1), the amount of deposits for a particular period is the amount determined by the formula

$$A/B$$

where

A is the total of the amounts on deposit with the selected listed financial institution at the close of business on the last day of each month that ends in the particular period; and

B is the number of months that end in the particular period.

Exclusion from loans and deposits (4) For the purposes of subsections (2) and (3), loans and deposits do not include

(a) bonds, stocks, debentures, items in transit and deposits in favour of Her Majesty in right of Canada; and

(b) any loan made to a non-resident person and any deposit held by a non-resident person, except where the loan or deposit is a debt or financial instrument described in any of paragraphs 1(a) to (e) of Part IX of Schedule VI to the Act.

Exclusion from salaries and wages (5) For the purposes of subsection (1), salaries and wages do not include the salary or wages of an employee to the extent that the salary or wages are reasonably attributable to the rendering by the employee of financial services, the supply of which are zero-rated supplies.

TRUST AND LOAN CORPORATIONS

Determination of the percentage **23.** (1) If a selected listed financial institution is a trust and loan corporation, a trust corporation or a loan corporation, the financial institution's percentage for a particular period for a participating province in which the financial institution has a permanent establishment is, despite subsection 20(2), the percentage that the gross revenue for the particular period

of its permanent establishments in the participating province is of the total gross revenue for the particular period of its permanent establishments in Canada.

- Determination of gross revenue
- (2) In subsection (1), “gross revenue for the particular period of its permanent establishments in the participating province” means, in relation to a financial institution, the total of the gross revenue of the financial institution for the particular period arising from
- (a) loans secured by land situated in the participating province;
 - (b) loans, not secured by land, made to persons residing in the participating province;
 - (c) loans, other than loans secured by land situated in a country other than Canada in which the financial institution has a permanent establishment,
 - (i) made to persons residing in a country other than Canada in which the financial institution does not have a permanent establishment, and
 - (ii) administered by a permanent establishment in the participating province; and
 - (d) business conducted at its permanent establishments in the participating province, other than business that gives rise to revenue in respect of loans.

QUALIFYING PARTNERSHIPS

- Determination of the percentage
- 24.** If a selected listed financial institution is a qualifying partnership, the financial institution’s percentage for a participating province for a particular period is
- (a) if all the members of the qualifying partnership are individuals, the percentage that would be determined under section 19 for the participating province for the particular period if the qualifying partnership were an individual; and
 - (b) in any other case, the percentage that would be determined under section 20 for the participating province for the particular period if the qualifying partnership were a corporation.

INVESTMENT PLANS

General Rules

- Priority
- 25.** The rules in sections 27 to 38 apply despite sections 19, 20 and 24.
- Meaning of “individual”
- 26.** For the purposes of sections 27 to 38, “individual” does not include a trust.
- Percentage — no permanent establishment in a province
- 27.** If, throughout a particular period, an investment plan does not have a permanent establishment in a participating province, the following rules apply:
- (a) if the investment plan is a stratified investment plan, for each series of the investment plan,
 - (i) if an election under section 49 is in effect in respect of the series throughout the particular period, the investment plan’s percentage for the series and for the participating province as of each day in the fiscal year that ends in the particular period is nil, and
 - (ii) in any other case, the investment plan’s percentage for the series and for the participating province for the particular period is nil;

(b) if the investment plan is a non-stratified investment plan and an election under section 49 is in effect in respect of the investment plan throughout the particular period, the investment plan's percentage for the participating province as of each day in the fiscal year that ends in the particular period is nil; and

(c) in any other case, the investment plan's percentage for the participating province for the particular period is nil.

28. For the purposes of determining an investment plan's percentage for a particular series and for a participating province pursuant to section 29 or 30 or determining a particular investment plan's percentage for a participating province pursuant to section 31 or 32 (which particular series or particular investment plan, as the case may be, is referred to in this section as the "investee"), the investor percentage for a participating province of a particular person that holds units of the investee is, as of a particular day,

(a) if the particular person is a selected listed financial institution and a non-stratified investment plan, the percentage that would be the particular person's percentage for the participating province as of the particular day if an election under section 49 were in effect throughout the fiscal year of the particular person that includes the particular day;

(b) if the particular person is a selected listed financial institution and a stratified investment plan, the percentage that is the total of all amounts, each of which is determined for a particular series of the particular person by the formula

$$A \times (B/C)$$

where

A is the percentage that would be the particular person's percentage for the particular series and the participating province as of the particular day if an election under section 49 were in effect throughout the fiscal year of the particular person that includes the particular day,

B is the total value of the units of the investee held by the particular person that are reasonably attributable to the particular series of the particular person, and

C is the total value of all of the units of the investee held by the particular person;

(c) if the particular person is a selected listed financial institution not described in paragraph (a) or (b), the amount determined for C in subsection 225.2(2) of the Act for the reporting period in respect of which the return under Division V of Part IX of the Act is the last such return that was required to be filed by the particular person on or before the particular day; and

(d) in any other case, the percentage that the particular person's taxable income earned in the participating province in the taxation year that is the last taxation year for which a return is required to be filed under the *Income Tax Act* on or before the particular day, as determined for the purposes of that Act pursuant to the rules prescribed in Parts IV and XXVI of the *Income Tax Regulations*, is of the particular person's total taxable income for the purposes of that Act for that taxation year.

Stratified Investment Plans

Percentage —
real time

29. (1) If a selected listed financial institution is a stratified investment plan other than an exchange-traded fund, an election under section 49 is in effect in respect of a series of the financial institution throughout a fiscal year of the financial institution and the financial institution has a permanent establishment in a participating province in the taxation year in which the fiscal year ends, the financial institution's percentage for the series and for the participating province as of a particular day in the fiscal year is the percentage determined by the formula

$$(A + B)/C$$

where

- A is the total of all amounts, each of which is the total value of the units of the series that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the particular day;
- B is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by the person's investor percentage for the participating province as of the particular day; and
- C is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada as of the particular day.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a series and for a participating province as of a particular day pursuant to subsection (1), if the total of the total value of the units of the series that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of that day, and of the total value of the units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the investor percentage of the persons for every participating province as of that day is 90% or more of the total value of the units of the series that are held by persons resident in Canada as of that day, the investment plan shall, to determine the amounts for A, B and C in the formula in that subsection, only use information relating to the unit holders of the series for which it knows the province of residency as of that day and unit holders of the series for which it knows the investor percentage for every participating province as of that day.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any particular day in a fiscal year of an investment plan, the total of the total value of the particular units of a series of the investment plan that are held by individuals or specified investors in the investment plan for which the investment plan knows, as of that day, the province of residency and the total value of the particular units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the persons' investor percentages for all participating provinces as of that day is less than 90% of the total value of the units of the investment plan that are held by persons resident in Canada as of that day, the following rules apply:

- (a) the units of the series other than the particular units are deemed to be held as of that day by an individual; and

(b) the individual referred to in paragraph (a) is deemed to be resident as of that day in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Attribution of
unit holders to a
participating
province

(4) Despite subsections (1) to (3), if a selected listed financial institution is a stratified investment plan other than an exchange-traded fund, an election under section 49 is in effect in respect of a series of the financial institution throughout a particular fiscal year of the financial institution and, on a particular day in the particular fiscal year, more than 10% of the total value of the units of the series is held by persons other than individuals and specified investors in the investment plan,

(a) if the particular day is the first day of the particular fiscal year, the financial institution's percentage for the series and for a participating province as of every day in the particular fiscal year is

(i) if no election under section 49 was in effect in respect of the series throughout the fiscal year (referred to in this paragraph as the "preceding fiscal year") of the investment plan immediately preceding the particular fiscal year, the financial institution's percentage for the series and for the participating province for the preceding fiscal year, and

(ii) in any other case, the total of all amounts, each of which is the financial institution's percentage for the series and for the participating province as of a day in the preceding fiscal year for which that percentage was required to be determined under subsection 225.2(2) of the Act, divided by the number of those days in the preceding fiscal year; and

(b) in any other case, the financial institution's percentage for the series and for a participating province as of the particular day and every following day in the particular fiscal year is the amount determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is the financial institution's percentage for the series and for the participating province as of a day (each of which is referred to in this paragraph as an "attribution day") in the particular fiscal year

(i) that precedes the first day in the particular year on which more than 10% of the value of the units of the series is held by persons other than individuals and specified investors in the investment plan, and

(ii) for which that percentage was required to be determined under subsection 225.2(2) of the Act, and

B is the number of attribution days in the particular fiscal year.

Percentage —
particular period

30. (1) If a selected listed financial institution is a stratified investment plan other than an exchange-traded fund, no election under section 49 is in effect in respect of a series of the financial institution throughout a fiscal year of the financial institution that ends in a particular period and the financial institution has a permanent establishment in the particular period in a participating province, the financial institution's percentage for the series and for

the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the series for the particular period by the formula

$$(A_1 + A_2)/A_3$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the series that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the attribution point,

A₂ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by the person's investor percentage for the participating province as of the attribution point, and

A₃ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the series for the particular period.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a series and for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the series for the particular period, the total of the total value of the units of the series that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and of the total value of the units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the investor percentage of the persons for every participating province as of the attribution point is 90% or more of the total value of the units of the series that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine for the attribution point the amounts for A₁, A₂ and A₃ in the second formula in that subsection, only use information relating to the unit holders of the series for which it knows the province of residency as of the attribution point and unit holders of the series for which it knows the investor percentage for every participating province as of the attribution point.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a series of an investment plan for a particular period in which a fiscal year of the investment plan ends, the total of the total value of the particular units of the series that are held by individuals or specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and the total value of the particular units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the persons' investor percentages for all participating provinces as of the attribution point is less than 90% of the total value of the units of the series that are held by persons resident in Canada as of the attribution point,

(a) the units of the series other than the particular units are deemed to be held as of the attribution point by an individual; and

(b) the individual referred to in paragraph (a) is deemed to be resident as of the attribution point in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Non-Stratified Investment Plans

Percentage —
real-time

31. (1) If a selected listed financial institution is a non-stratified investment plan, other than an exchange-traded fund, in respect of which an election under section 49 is in effect throughout a fiscal year of the financial institution and the financial institution has a permanent establishment in a participating province in the taxation year in which the fiscal year ends, the financial institution's percentage for the participating province as of a particular day in the fiscal year is the percentage determined by the formula

$$(A + B)/C$$

where

A is the total of all amounts, each of which is the total value of the units of the financial institution that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the particular day;

B is the total of all amounts, each of which is the total value of the units of the financial institution that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by the person's investor percentage for the participating province as of the particular day; and

C is the total of all amounts, each of which is the total value of the units of the financial institution that are held by a person resident in Canada as of the particular day.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a participating province as of a particular day pursuant to subsection (1), if the total of the total value of the units of the investment plan that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of that day and of the total value of the units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the investor percentage of the persons for each participating province as of that day is 90% or more of the total value of the units of the investment plan that are held by persons resident in Canada as of that day, the investment plan shall, to determine the amounts for A, B and C in the formula in that subsection, only use information relating to the unit holders for which it knows the province of residency as of that day and unit holders of the investment plan for which it knows the investor percentage for each participating province as of that day.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any particular day of a fiscal year of an investment plan, the total of the total value of the particular units of the investment plan that are held by individuals or specified investors in the investment plan for which the investment plan knows, as of that day, the province of residency and the total value of the particular units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the persons' investor

percentages for all participating provinces as of that day is less than 90% of the total value of the units of the investment plan that are held by persons resident in Canada as of that day,

(a) the units of the investment plan other than the particular units are deemed to be held as of that day by an individual; and

(b) the individual referred to in paragraph (a) is deemed to be resident as of that day in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Attribution of
unit holders to a
participating
province

(4) Despite subsections (1) to (3), if a selected listed financial institution is a non-stratified investment plan other than an exchange-traded fund, an election under section 49 is in effect in respect of the financial institution throughout a particular fiscal year of the financial institution and, on a particular day in the particular fiscal year, more than 10% of the total value of the units of the financial institution is held by persons other than individuals and specified investors in the investment plan,

(a) if the particular day is the first day of the particular fiscal year, the financial institution's percentage for a participating province as of every day in the particular fiscal year is

(i) if no election under section 49 was in effect in respect of the investment plan throughout the fiscal year (referred to in this paragraph as the "preceding fiscal year") of the investment plan immediately preceding the particular fiscal year, the financial institution's percentage for the participating province for the preceding fiscal year, and

(ii) in any other case, the total of all amounts, each of which is the financial institution's percentage for the participating province as of a day in the preceding fiscal year for which that percentage was required to be determined under subsection 225.2(2) of the Act, divided by the number of those days in the preceding fiscal year; and

(b) in any other case, the financial institution's percentage for a participating province as of the particular day and every day in the particular fiscal year following the particular day is the amount determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is the financial institution's percentage for the participating province as of a day (each of which is referred to in this paragraph as an "attribution day") in the particular fiscal year

(i) that precedes the first day in the particular year on which more than 10% of the value of the units of the financial institution is held by persons other than individuals and specified investors in the investment plan, and

(ii) for which that percentage was required to be determined under subsection 225.2(2) of the Act, and

B is the number of attribution days in the particular fiscal year.

Percentage —
particular period

32. (1) If a selected listed financial institution is a non-stratified investment plan, other than an exchange-traded fund, in respect of which no election under section 49 is in effect throughout a fiscal year of the financial institution that ends in a particular period and the

financial institution has a permanent establishment in the particular period in a participating province, the financial institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$(A_1 + A_2)/A_3$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the attribution point,

A₂ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by the person's investor percentage for the participating province as of the attribution point, and

A₃ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the particular period.

Substantially all of the value of the units

(2) In determining an investment plan's percentage for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the investment plan for the particular period, the total of the total value of the units of the investment plan that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and of the total value of the units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the investor percentage of the persons for each participating province as of the attribution point is 90% or more of the total value of the units of the investment plan that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine for the attribution point the amounts for A₁, A₂ and A₃ in the second formula in that subsection, only use information relating to the unit holders of the investment plan for which it knows the province of residency as of the attribution point and unit holders of the investment plan for which it knows the investor percentage for every participating province as of the attribution point.

Attribution of unit holders to a participating province

(3) For the purposes of subsection (1), if, for any attribution point in respect of an investment plan for a particular period in which a fiscal year of the investment plan ends, the total of the total value of the particular units of the investment plan that are held by individuals or specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and the total value of the particular units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows the persons' investor percentages for

all participating provinces as of the attribution point is less than 90% of the total value of the units of the investment plan that are held by persons resident in Canada as of the attribution point,

- (a) the units of the investment plan other than the particular units are deemed to be held as of the attribution point by an individual; and
- (b) the individual referred to in paragraph (a) is deemed to be resident as of the attribution point in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Exchange-traded Funds

Percentage —
stratified
exchange-traded
funds

33. (1) If a selected listed financial institution is a stratified investment plan and an exchange-traded fund and the financial institution has a permanent establishment in a particular period in a participating province, the financial institution's percentage for a series and for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the series for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in the participating province as of the attribution point, and

A₂ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the series for the particular period.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a series and for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the series for the particular period, the total value of the units of the series that are held by persons for which the investment plan knows the province of residency as of the attribution point is 90% or more of the value of the units of the series that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection, only use information relating to the unit holders of the series for which it knows the province of residency as of the attribution point.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a series of an investment plan for a particular period in which a fiscal year of the investment plan ends, the value of the units of the series that are held by persons for which the investment plan knows the province of residency as of the attribution point is less than 90% of the value of the units of the series that are held by persons resident in Canada as of the attribution point, each unit holder of the series that is resident in Canada and for which the investment

plan does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Percentage —
non-stratified
exchange-traded
funds

34. (1) If a selected listed financial institution is a non-stratified investment plan and an exchange-traded fund and the financial institution has a permanent establishment in a particular period in a participating province, the financial institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the financial institution that are held by a person resident in the participating province as of the attribution point, and

A₂ is the total of all amounts, each of which is the total value of the units of the financial institution that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the particular period.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the investment plan for the particular period, the total value of the units of the investment plan that are held by persons for which the investment plan knows the province of residency as of the attribution point is 90% or more of the value of the units of the investment plan that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection, only use information relating to the unit holders for which it knows the province of residency as of the attribution point.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of an investment plan for a particular period in which a fiscal year of the investment plan ends, the value of the units of the investment plan that are held by persons for which the investment plan knows the province of residency as of the attribution point is less than 90% of the value of the units of the investment plan that are held by persons resident in Canada as of the attribution point, each unit holder that is resident in Canada and for which the investment plan does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Pension Entities

Percentage —
defined
contribution
plans

35. (1) If a selected listed financial institution is a pension entity of a defined contribution pension plan and the financial institution has a permanent establishment in a particular period in a participating province, the financial institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the total of all amounts, each of which is the total value of the assets of the pension plan that are reasonably attributable to a plan member of the pension entity resident in the participating province as of the attribution point, and

A₂ is the total of all amounts, each of which is the total value of the assets of the pension plan that are reasonably attributable to a plan member of the pension entity resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the particular period.

Residency of
substantially all
of the plan
members

(2) In determining the percentage of a pension entity of a pension plan for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the pension entity for the particular period, the total value of the assets of the pension plan that are reasonably attributable to plan members of the pension entity for which the pension entity knows the province of residency as of the attribution point is 90% or more of the value of the assets of the pension plan that are reasonably attributable to plan members of the pension entity resident in Canada, the pension entity shall, to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection, only use information relating to the plan members for which it knows the province of residency as of the attribution point.

Attribution of
plan members to
a participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a pension entity of a pension plan for a particular period in which a fiscal year of the pension entity ends, the value of the assets of the pension plan that are reasonably attributable to plan members of the pension plan for which the pension entity knows the province of residency as of the attribution point is less than 90% of the value of the assets of the pension plan that are reasonably attributable to plan members of the pension plan resident in Canada, each plan member that is resident in Canada as of the attribution point and for which the pension entity does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Percentage —
defined benefits
plans

36. (1) If a selected listed financial institution is a pension entity of a defined benefits pension plan and the financial institution has a permanent establishment in a particular period

in a participating province, the financial institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the total of all amounts, each of which is the total value of the actuarial liabilities of the pension plan that are reasonably attributable to a plan member of the pension entity resident in the participating province, and

A₂ is the total of all amounts, each of which is the total value of the actuarial liabilities of the pension plan that are reasonably attributable to a plan member of the pension entity resident in Canada; and

B is the number of attribution points in respect of the financial institution for the particular period.

Substantially all of the liabilities

(2) In determining the percentage of a pension entity of a pension plan for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the pension entity for the particular period, the total value of the actuarial liabilities of the pension plan that are reasonably attributable to plan members of the pension entity for which the pension entity knows the province of residency as of the attribution point is 90% or more of the actuarial liabilities of the pension plan that are reasonably attributable to plan members of the pension entity resident in Canada, the pension entity shall, to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection, only use information relating to the plan members for which it knows the province of residency as of the attribution point.

Attribution of plan members to a participating province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a pension entity of a pension plan for a particular period in which a fiscal year of the pension entity ends, the actuarial liabilities of the pension plan that are reasonably attributable to plan members of the pension entity for which the pension entity knows, as of the attribution point, the province of residency is less than 90% of the actuarial liabilities of the pension plan that are reasonably attributable to plan members of the pension entity resident in Canada, each plan member that is resident in Canada as of the attribution point and for which the pension entity does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Private Investment Plans

Percentage — profit sharing plans or retirement compensation arrangements

37. (1) If a selected listed financial institution is a private investment plan that is a trust governed by a deferred profit sharing plan, an employees profit sharing plan or a retirement compensation arrangement and the financial institution has a permanent establishment in a

particular period in a participating province, the financial institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the total of all amounts, each of which is the total value of the assets of the investment plan that are reasonably attributable to a plan member of the investment plan that is resident in the participating province as of the attribution point, and

A₂ is the total of all amounts, each of which is the total value of the assets of the investment plan that are reasonably attributable to a plan member of the investment plan that is resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the particular period.

Substantially all
of the assets

(2) In determining a private investment plan's percentage for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the investment plan for the particular period, the total value of the assets of the plan that are reasonably attributable to plan members of the investment plan for which the investment plan knows the province of residency as of the attribution point is 90% or more of the value of the assets of the investment plan that are reasonably attributable to plan members of the investment plan resident in Canada, the investment plan shall, to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection, only use information relating to the plan members for which it knows the province of residency as of the attribution point.

Attribution of
plan members to
a participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a private investment plan for a particular period in which a fiscal year of the investment plan ends, the value of the assets of the investment plan that are reasonably attributable to plan members of the investment plan for which the investment plan knows the province of residency as of the attribution point is less than 90% of the value of the assets of the investment plan that are reasonably attributable to plan members of the investment plan resident in Canada, each plan member that is resident in Canada as of the attribution point and for which the investment plan does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

Percentage —
employee benefit
plans

38. (1) If a selected listed financial institution is a private investment plan that is a employee benefit plan, a employee life and health trust, a registered supplementary unemployment benefit plan or a trust governed by an employee trust and the financial institution has a permanent establishment in a particular period in a participating province, the financial

institution's percentage for the participating province for the particular period is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the particular period by the formula

$$A_1/A_2$$

where

A₁ is the number of plan members of the investment plan that are resident in the participating province as of the attribution point, and

A₂ is the number of plan members of the investment plan that are resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the particular period.

Substantially all of the plan members

(2) In determining a private investment plan's percentage for a participating province for a particular period pursuant to subsection (1), if, for any attribution point in respect of the investment plan for the particular period, the percentage of plan members of the investment plan for which the investment plan knows the province of residency as of the attribution point is 90% or more of the number of plan members of the investment plan resident in Canada, the investment plan shall use information relating to plan members for which it knows the province of residency as of the attribution point to determine for the attribution point the amounts for A₁ and A₂ in the second formula in that subsection.

Attribution of plan members to a participating province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a private investment plan for a particular period in which a fiscal year of the investment plan ends, the percentage of plan members of the investment plan for which the investment plan knows the province of residency as of the attribution point is less than 90% of the number of plan members of the investment plan resident in Canada, each plan member that is resident in Canada as of the attribution point and for which the investment plan does not know the province of residency is deemed to be resident, as of the attribution point, in any one of the participating provinces with the highest tax rate on the first day of the fiscal year.

DIVIDED BUSINESSES

Agreement with the Minister — weighted average

39. If one or more parts of the business of a particular selected listed financial institution, other than a financial institution described in any of sections 21 to 23, for a particular period consist of operations normally conducted by any of the types of financial institutions referred to in any of sections 21 to 23 and 29 to 38, the particular financial institution and the Minister may agree that the particular financial institution's percentage for a participating province for the particular period is the weighted average of the percentages determined

(a) by applying to each such part of the business whichever of those sections refers to the type of financial institution that normally conducts the operations comprising that part of the business; and

(b) by applying section 20 to the remainder of the business that does not consist of operations normally conducted by any of the types of financial institutions referred to in those sections.

PART 3

PRESCRIBED AMOUNTS OF TAX

Amounts not included in the net tax adjustment formula

40. For the purposes of paragraph (a) of the description of A and paragraph (a) of the description of F in subsection 225.2(2) of the Act, the following amounts are prescribed amounts of tax:

(a) any amount of tax that became payable by an insurer, or that was paid by the insurer without having become payable, in respect of property or services acquired, imported or brought into a participating province exclusively and directly for consumption, use or supply in the course of investigating, settling or defending a claim arising under an insurance policy that is not in the nature of accident and sickness insurance or life insurance;

(b) any amount of tax that became payable by a selected listed financial institution, or that was paid by the financial institution without having become payable, in respect of a supply or importation of property referred to in subsection 259.1(2) of the Act; and

(c) any amount of tax that became payable by a stratified investment plan, or that was paid by a stratified investment plan without having become payable, in respect of property or a service, to the extent that the property or service was acquired, imported or brought into a participating province for consumption, use or supply in the course of the activities relating to a provincial series of the stratified investment plan.

Section 220.04

41. For the purposes of section 220.04 of the Act, a prescribed amount of tax is any amount of tax that

(a) is prescribed for the purposes of paragraph (a) of the description of F in subsection 225.2(2) of the Act; or

(b) is in respect of property or a service brought into a participating province or acquired, otherwise than for consumption, use or supply in the course of an endeavour (as defined in subsection 141.01(1) of the Act) of the person referred to in section 220.04 of the Act.

Adaptation of F in subsection 225.2(2)

42. In respect of a particular reporting period of a selected listed financial institution and in respect of a participating province, paragraph (a) of the description of F in subsection 225.2(2) of the Act is adapted as follows:

(a) all amounts of tax (other than a prescribed amount of tax) under subsection 165(2) in respect of supplies made in the participating province to the financial institution or under section 212.1 in respect of goods imported by the financial institution for use in the participating province that became payable, or that was paid without having become payable, by the financial institution during any reporting period of the financial institution, if

(i) where the amount of tax became payable or was paid by the financial institution during a reporting period of the financial institution other than the particular reporting period,

(A) the other reporting period precedes the particular reporting period,

(B) the particular reporting period ends within two years after the end of the financial institution's fiscal year that includes the other reporting period, and

(C) the financial institution was a selected listed financial institution throughout the other reporting period,

(ii) in determining the net tax for any reporting period of the financial institution other than the particular reporting period, the amount of tax was not included in

(A) if this subsection was adapted pursuant to section 48 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* in respect of the other reporting period, the total for D, or

(B) in any other case, the total for F, and

(iii) the amount of tax is claimed by the financial institution in a return under this Division filed by the person for the particular reporting period; and

PART 4

PRESCRIBED AMOUNTS

Definitions

43. (1) The following definitions apply in this section and in paragraph 46(d).

“eligible roadway”
« voie admissible »

“eligible roadway” has the same meaning as in section 26 of the *New Harmonized Value-added Tax System Regulations, No. 2*.

“excluded property or service”
« bien ou service exclu »

“excluded property or service” means property or a service that is

(a) specified energy that is acquired or imported for consumption or use exclusively in the heating of asphalt to be used directly in the construction or maintenance of an eligible roadway;

(b) property or a service described in any of paragraphs (e) to (g) of the definition “specified property or service” that is acquired or imported by the organizer or sponsor of a convention for consumption or use exclusively at the convention;

(c) a 1-800, 1-866, 1-877 or 1-888 telephone service or a similar toll free telephone service or a service described in paragraph (f) or (g) of the definition “specified property or service” that is related to a 1-800, 1-866, 1-877 or 1-888 telephone service or a similar toll free telephone service;

(d) access to the Internet;

(e) a web-hosting service;

(f) a taxi, the operation and custody of which is entrusted to a person by the holder of a taxi permit for the taxi; or

(g) property or a service that is acquired or imported exclusively for the purpose of

(i) being supplied by a person,

(ii) becoming a component of tangible personal property that is to be supplied by a person, or

(iii) in the case of property or a service described in paragraph (f) or (g) of the definition “specified property or service” acquired by a person operating a telecommunication service, being used directly and solely in the making of a taxable supply of a telecommunication service by the person.

“farming” « agriculture »	“farming” has the meaning assigned by subsection 248(1) of the <i>Income Tax Act</i> .
“large business” « grande entreprise »	“large business”, at any time, means a person that is, at that time, a prescribed person for the purposes of the definition “large business” in subsection 236.01(1) of the Act.
“motor vehicle” « véhicule automobile »	“motor vehicle” has the same meaning as in section 26 of the <i>New Harmonized Value-added Tax System Regulations, No. 2</i> .
“qualifying energy” « forme d’énergie admissible »	“qualifying energy” means specified energy that is a specified property or service.
“qualifying food, beverages and entertainment” « aliments, boissons et divertissements admissibles »	“qualifying food, beverages and entertainment” means food, beverages or entertainment that is a specified property or service.
“qualifying fuel” « carburant admissible »	“qualifying fuel” means motive fuel that is a specified property or service.
“qualifying motor vehicle” « véhicule automobile admissible »	“qualifying motor vehicle” means (a) a selected motor vehicle that is a specified property or service; and (b) property (other than motive fuel) or a service, in respect of a selected motor vehicle, that is a specified property or service.
“qualifying telecommunications services” « service de télécommunication admissible »	“qualifying telecommunications services” means a specified property or service described in paragraph (f) or (g) of the definition “specified property or service”.
“recapture rate” « taux de récupération »	“recapture rate” has the same meaning as in section 26 of the <i>New Harmonized Value-added Tax System Regulations, No. 2</i> .
“selected motor vehicle” « véhicule automobile désigné »	“selected motor vehicle” means a motor vehicle that is licensed, or required to be licensed, for use on a public highway under the laws of a province relating to the licensing of motor vehicles and that weighs, while carrying its maximum capacity of fuel, lubricant and coolant, less than 3,000 kilograms at the time when the motor vehicle is first licensed, or first required to be licensed, under those laws.
“specified energy” « forme d’énergie déterminée »	“specified energy” has the same meaning as in section 26 of the <i>New Harmonized Value-added Tax System Regulations, No. 2</i> .

“specified extent”
« mesure déterminée »

“specified extent” of property or a service in respect of a specified class of specified property or service, for a province that is Ontario or British Columbia and for a reporting period of a person, means the percentage that is equal to

(a) in the case where the specified class is qualifying telecommunications services, the property or service includes qualifying telecommunications services and other property or services that are not specified property or services (each of which is referred to in this paragraph as an “element”) and the consideration for the specified property or service and each element is not separately identified,

(i) if the province is British Columbia, 95%, and

(ii) if the province is Ontario and the specified property or service is provided to the financial institution together with

(A) an element that is a service, 96%,

(B) an element that is property, 89%, and

(C) an element that is a service and an element that is property, 86%;

(b) if paragraph (a) does not apply and the property or service is a specified property or service (other than farming property or service of the person for the reporting period) of the specified class, 100%; and

(c) in any other case, 0%.

“specified property or service”
« bien ou service déterminé »

“specified property or service” means property or a service (other than excluded property or service) that is

(a) a selected motor vehicle;

(b) motive fuel, other than diesel fuel, that is acquired or imported for consumption or use in the engine of a selected motor vehicle;

(c) property (other than property for maintenance or repair) that is acquired or imported by a person for consumption or use in respect of a selected motor vehicle acquired or imported by the person, if the acquisition or importation of the property occurs within 365 days of the acquisition or importation of the selected motor vehicle;

(d) a service (other than a service for maintenance or repair) that is acquired by a person for consumption or use in respect of a selected motor vehicle acquired or imported by the person, if the acquisition of the service occurs within 365 days of the acquisition or importation of the motor vehicle;

(e) specified energy;

(f) a service described in paragraph (a) of the definition “telecommunication service” in subsection 123(1) of the Act;

(g) access to a telecommunications circuit, line, frequency, channel or partial channel, or to other similar means of transmitting a telecommunication (but not including a satellite channel), for use in providing a service described in paragraph (a) of the definition “telecommunication service” in subsection 123(1) of the Act; or

(h) food, beverages or entertainment acquired by a person in respect of which subsection 67.1(1) of the *Income Tax Act* applies or would apply if the person were a taxpayer under that Act.

“specified salary and wages”
« rémunération déterminée »

“specified salary and wages” has the same meaning as in section 31 of the *New Harmonized Value-added Tax System Regulations, No. 2*.

Specified classes (2) For the purposes of this section and paragraph 46(d), the following are specified classes of specified property or service:

- (a) qualifying energy;
- (b) qualifying food, beverages and entertainment;
- (c) qualifying fuel;
- (d) qualifying motor vehicles; and
- (e) qualifying telecommunications services.

Farming property or service (3) For the purposes of paragraph 46(d), specified property or service of a financial institution is farming property or service of the financial institution for a particular reporting period of the financial institution if the chief source of income for the taxation year of the financial institution immediately preceding the particular reporting period was farming and if the specified property or service is primarily consumed or used in the person’s farming activities.

Tax recovery rate (4) For the purposes of paragraph 46(d), the tax recovery rate of a financial institution for a specified class of specified property or service for a reporting period of the financial institution is

- (a) if the specified class is qualifying fuel, the tax recovery rate of the financial institution for qualifying motor vehicles for the reporting period, as determined under paragraph (b); and
- (b) for any other specified class, the lesser of 100% and
 - (i) if an election under section 44 is in effect throughout the reporting period, the percentage determined by the formula

A/B

where

A is the total of all amounts, each of which is an input tax credit of the financial institution for the reporting period in respect of an amount of tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act, and

B is the total of all amounts, each of which is an amount of tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act that became payable by the financial institution during the reporting period without having been paid before the reporting period or was paid by the financial institution during the reporting period without having become payable, and

- (ii) in any other case, the percentage determined by the formula

C/D

where

C is the total of all amounts, each of which is an input tax credit of the financial institution for the reporting period in respect of a specified property or service of the specified class and in respect of an amount of tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act, and

D is the total of all amounts, each of which is an amount of tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act in respect of a supply of a specified property or service of the specified class that became payable by the financial institution during the reporting period without having been paid before the reporting period or was paid by the financial institution during the reporting period without having become payable.

Election —
subsection 43(5)

44. (1) Subject to subsection (5), a financial institution may make an election for the purposes of paragraph 43(5)(b) that is effective from the first day of the first reporting period of the financial institution throughout which the financial institution is a selected listed financial institution that ends after June 2010.

Form of election

(2) An election made under subsection (1) by a financial institution shall be

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

(b) filed with the Minister in prescribed manner on or before the day on which the election is to come into effect or such later day as the Minister may allow.

Revocation

(3) A financial institution that has made an election under subsection (1) may revoke the election by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective.

Cessation

(4) An election made under subsection (1) by a financial institution ceases to have effect on the day on which a revocation of the election becomes effective.

Restriction

(5) If a financial institution has made an election under subsection (1) and has revoked the election under subsection (3), no other election under subsection (1) may be made by the financial institution.

Interpretation —
non-stratified
investment plans

45. (1) If a selected listed financial institution is a non-stratified investment plan and an election under section 49 in respect of the financial institution is in effect throughout a fiscal year that ends in a taxation year of the financial institution, in determining, pursuant to section 46, prescribed amounts for the purpose of the description of G in subsection 225.2(2) of the Act in respect of a particular reporting period of the financial institution in the fiscal year, the following rules apply:

(a) a reference to “the total for A” in section 46 is to be read as a reference to “the total of all amounts, each of which is the total for A₁”;

(b) a reference to “the total for B” in section 46 is to be read as a reference to “the total of all amounts, each of which is the total for A₂”;

(c) a reference to “the total for F” in section 46 is to be read as a reference to “the total for D”; and

(d) a reference to “the financial institution’s percentage for the participating province for the taxation year” or to “the lesser of the financial institution’s percentage for the participating province for the taxation year and the financial institution’s percentage for the participating province for the immediately preceding taxation year” in section 46 are to be read as a reference to “the financial institution’s percentage for the participating province as of the first day in the particular reporting period”.

Interpretation —
stratified
investment plans

(2) If a selected listed financial institution is a stratified investment plan, in determining, pursuant to section 46, prescribed amounts for the purpose of the description of G in subsection 225.2(2) of the Act in respect of a particular reporting period of the financial institution in a fiscal year that ends in a particular taxation year of the financial institution, the following rules apply:

(a) a reference to “the total for A” in section 46 is to be read as a reference to “the total of the total of all amounts, each of which is the total for A₁, and the total of all amounts, each of which is the total for A₂,”;

(b) a reference to “the total for B” in section 46 is to be read as a reference to “the total of the total of all amounts, each of which is the total for A₂, and the total of all amounts, each of which is the total for A₃,”;

(c) a reference to “the total for F” in section 46 is to be read as a reference to “the total for D”; and

(d) for the purposes of section 46, the financial institution’s percentage for a participating province for the particular taxation year or for the immediately preceding taxation year shall not be determined in accordance with the rules set out in Part 2 that apply to the financial institution but instead shall be equal to the total of all amounts, each of which is determined for a series of the financial institution by the formula

$$A \times (B/C)$$

where

A is

(i) if an election under section 49 in respect of the series in effect throughout the particular reporting period, the financial institution’s percentage for the series and for the participating province as of the first day in the particular reporting period, and

(ii) in any other case, the financial institution’s percentage for the series and for the participating province for the taxation year that immediately precedes the particular taxation year,

B is the total value of the units of the series as of the first day in the particular reporting period, and

C is the total value of the units of the financial institution as of the first day in the particular reporting period.

Specific
adjustments

46. For the purpose of the description of G in subsection 225.2(2) of the Act, the following are prescribed amounts in respect of a particular reporting period in a fiscal year that ends in a taxation year of a selected listed financial institution:

(a) the positive or negative amount determined, for a participating province, by the formula

$$G_1 - [(G_2 - G_3) \times G_4 \times (G_5/G_6)]$$

where

G_1 is the total of

(i) all amounts each of which is an amount that was paid or that became payable by the financial institution as or on account of tax under subsection 165(2) of the Act and that was adjusted, refunded or credited under section 232 of the Act in the particular reporting period, to the extent that the amount was included in the total for F in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(ii) if, under section 252.4 or 252.41 of the Act, a person during the particular reporting period pays to, or credits in favour of, the financial institution an amount as or on account of a rebate, all amounts each of which is an amount so paid or credited to the financial institution to the extent that the amount is in respect of tax under subsection 165(2) or section 212.1 of the Act and was included in the total for F in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(iii) all amounts each of which is an amount that, during the particular reporting period, was rebated, refunded or remitted to the financial institution under any Act of Parliament (other than the Act), to the extent that the amount is in respect of tax under subsection 165(2) or section 212.1 of the Act and was included in the total for F in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(iv) all amounts each of which is an amount of tax that was paid or that became payable by the financial institution under subsection 165(2) of the Act in respect of a supply of property or a service in respect of which the financial institution is not entitled to claim an input tax credit because of section 351 or paragraph 356(5)(b) of the Act, to the extent that the amount was included in the total for F in subsection 225.2(2) of the Act for the particular reporting period,

(v) all amounts each of which is determined, for each rebate to which section 181.1 of the Act applies that is received during the particular reporting period by the financial institution, by the formula

$$[A/(100 + A + B)] \times C$$

where

A is

(A) if tax under subsection 165(2) of the Act was payable in respect of the supply to the financial institution of the property or service in respect of which the rebate is paid, the tax rate for the participating province in which the supply was made, and

(B) in any other case, zero, and

B is the rate set out in subsection 165(1) of the Act, and

C is the amount of the rebate,

(vi) all amounts each of which is an amount, in respect of a supply made at any time during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax payable by the financial institution under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act that is included in the cost to the financial institution of supplying the property or service to the other person, and

(vii) all amounts each of which is

(A) the provincial component amount (within the meaning of section 232.01 of the Act) of a tax adjustment note issued under subsection 232.01(3) of the Act to the financial institution during the particular reporting period in respect of a specified resource if an amount in respect of a supply of all or part of the specified resource was included under paragraph (ii) of the description of G_{12} for the particular reporting period or a prior reporting period of the financial institution, or

(B) the provincial component amount (within the meaning of section 232.02 of the Act) of a tax adjustment note issued under subsection 232.02(2) of the Act to the financial institution during the particular reporting period in respect of employer resources if an amount in respect of supplies of the employer resources was included under paragraph (iii) of the description of G_{12} for the particular reporting period or a prior reporting period of the financial institution,

G_2 is the total of

(i) all amounts each of which is an amount that was paid or that became payable by the financial institution as or on account of tax under subsection 165(1) of the Act and that was adjusted, refunded or credited under section 232 of the Act in the particular reporting period, to the extent that the amount was included in the total for A in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(ii) if, under section 252.4 or 252.41 of the Act, a person during the particular reporting period pays to, or credits in favour of, the financial institution an amount as or on account of a rebate, all amounts each of which is an amount so paid or credited to the financial institution, to the extent that the amount is in respect of tax under any of subsection 165(1) and sections 212 and 218 of the Act and was included in the total for A in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(iii) all amounts each of which is an amount (other than an amount included under subparagraph (i)) that, during the particular reporting period, was rebated, refunded or remitted to the financial institution under any Act of Parliament, to the extent that the amount is in respect of tax under any of subsection 165(1) and sections 212 and 218 of the Act and was included in the total for A in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(iv) all amounts each of which is an amount of tax that was paid or that became payable by the financial institution under any of subsection 165(1) and sections 212 and 218 of the Act in respect of a supply or importation of property or a service in respect of which

(A) in the absence of subsection 218.1(2) and section 220.04 of the Act, tax under any of subsection 165(2), sections 212.1 and 218.1 and Division IV.1 of Part IX of the Act would have been payable by the financial institution but for Subdivision c of Division X of that Part or the fact that the supply is not described in Subdivision b of Division X of that Part, or

(B) if tax had been payable under any of subsection 165(2), sections 212.1 and 218.1 and Division IV.1 of Part IX of the Act by the financial institution, the financial institution would not have been entitled to claim an input tax credit in respect of that tax because of section 351 or paragraph 356(5)(b) of the Act,

to the extent that the amount was included in the total for A in subsection 225.2(2) of the Act for the particular reporting period,

(v) all amounts each of which is determined, for each rebate to which section 181.1 of the Act applies that is received during the particular reporting period by the financial institution, by the formula

$$[A/(100 + A + B)] \times C$$

where

A is the rate set out in subsection 165(1) of the Act,

B is

(A) if tax under subsection 165(2) of the Act was payable in respect of the supply to the financial institution of the property or service in respect of which the rebate is paid, the tax rate for the participating province in which the supply was made, and

(B) in any other case, zero, and

C is the amount of the rebate,

(vi) all amounts, each of which is

(A) the federal component amount (within the meaning of section 232.01 of the Act) of a tax adjustment note issued under subsection 232.01(3) of the Act to the financial institution during the particular reporting period in respect of a specified resource if an amount in respect of a supply of all or part of the specified resource was included under clause (A) of subparagraph (v) of the description of G, for the particular reporting period or a prior reporting period of the financial institution, or

(B) the federal component amount (within the meaning of section 232.02 of the Act) of a tax adjustment note issued under subsection 232.02(2) of the Act to the financial institution during the particular reporting period in respect of employer resources if an amount in respect of supplies of the employer resources was in-

cluded under clause (B) of subparagraph (v) of the description of G_7 for the particular reporting period or a prior reporting period of the financial institution, and

(vii) all amounts, each of which is an amount of tax that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution, if the tax is a cost to the financial institution of making a supply, the supply is made at any time during the particular reporting period to another person that is a selected listed financial institution at that time and an election made by the financial institution and the other person under subsection 225.2(4) of the Act applies to the supply,

G_3 is the total of

- (i) all input tax credits of the financial institution claimed in the return under Division V of Part IX of the Act filed by the financial institution for any reporting period of the financial institution in respect of an amount included under any of subparagraphs (i) to (iii) of the description of G_2 for the particular reporting period,
- (ii) all amounts included for any reporting period of the financial institution in the total for B in subsection 225.2(2) of the Act in respect of an amount included under subparagraph (iv) of the description of G_2 for the particular reporting period,
- (iii) all amounts each of which is an amount of tax that the financial institution is deemed under paragraph 181.1(f) of the Act to have collected during the particular reporting period, and
- (iv) all amounts, each of which is
 - (A) an amount the financial institution was required by paragraph 232.01(5)(b) of the Act to include in its determination of net tax for the particular reporting period in respect of input tax credits of the financial institution included in the total for B in subsection 225.2(2) of the Act for the particular reporting period or a prior reporting period of the financial institution,
 - (B) an amount the financial institution was required by paragraph 232.02(4)(b) of the Act to include in its determination of net tax for the particular reporting period in respect of input tax credits of the financial institution included in the total for B in subsection 225.2(2) of the Act for the particular reporting period or a prior reporting period of the financial institution,
 - (C) if a tax adjustment note is issued to the financial institution under subsection 232.01(3) of the Act in respect of all or part of a specified resource, a supply of the specified resource or part is deemed for the purposes of section 232.01 of the Act to have been received by the financial institution under subparagraph 172.1(5)(d)(i) of the Act and tax in respect of the supply is deemed for the purposes of section 232.01 of the Act to have been paid on a particular day under subparagraph 172.1(5)(d)(ii) of the Act by the financial institution, an amount that the financial institution would be required by paragraph 232.01(5)(c) of the Act to pay during the particular reporting period to the Receiver General as a result of the issuance of the tax adjustment note if the financial institution were a selected listed financial institution on the particular day, or

(D) if a tax adjustment note is issued to the financial institution under subsection 232.02(2) of the Act in respect of employer resources, particular supplies (as referred to in subsection 232.02(4) of the Act) of those employer resources are deemed for the purposes of section 232.02 of the Act to have been received by the financial institution under subparagraph 172.1(6)(d)(i) of the Act and tax in respect of each of the particular supplies is deemed for the purposes of section 232.02 of the Act to have been paid under subparagraph 172.1(6)(d)(ii) of the Act by the financial institution, an amount that the financial institution would be required by paragraph 232.02(4)(c) of the Act to pay during the particular reporting period to the Receiver General as a result of the issuance of the tax adjustment note if the financial institution were a selected listed financial institution on the first day on which an amount of tax is deemed for the purposes of section 232.02 of the Act to have been paid in respect of the particular supplies,

G₄ is

(i) for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period, the lesser of the financial institution's percentage for the participating province for the taxation year and the financial institution's percentage for the participating province for the immediately preceding taxation year, each determined in accordance with the rules set out in Part 2 that apply to that financial institution,

(ii) despite subparagraph (i), for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period in the case where the financial institution is a selected listed financial institution to which subsection 228(2.2) of the Act applies, the financial institution's percentage for the participating province for the reporting period immediately preceding the particular reporting period, determined in accordance with the rules set out in Part 2 that apply to that financial institution, and

(iii) in any other case, the financial institution's percentage for the participating province for the taxation year, determined in accordance with the rules set out in Part 2 that apply to that financial institution,

G₅ is the tax rate for the participating province, and

G₆ is the rate set out in subsection 165(1) of the Act;

(b) the positive or negative amount determined, for a participating province, by the formula

$$[(G_7 - G_8) \times G_9 \times (G_{10}/G_{11})] - G_{12}$$

where

G₇ is the total of

(i) all amounts each of which is an amount of tax deemed to have been collected during the particular reporting period by the financial institution under paragraph 129(6)(b) or subsection 129.1(4) of the Act,

(ii) all amounts each of which is an amount of tax deemed to have been paid by the financial institution under paragraph 180(d) of the Act during the particular period

to the extent that the amount is in respect of tax paid by another person under subsection 165(1) or section 212 of the Act and has not been included in the total for A in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(iii) all amounts each of which is an amount that is required to be added under subsection 235(1) or 236(1) of the Act in determining the net tax of the financial institution for the particular reporting period, and

(iv) all amounts each of which is an amount of tax that the financial institution was deemed to have paid during the particular reporting period under subparagraph 172.1(5)(d)(ii) or (6)(d)(ii) or paragraph 172.1(7)(d) of the Act,

G₈ is the total of

(i) all input tax credits of the financial institution that the financial institution is entitled to claim in the return under Division V of Part IX of the Act filed by the financial institution for the particular reporting period in respect of an amount included under subparagraph (ii) of the description of G₇ for the particular reporting period, to the extent that the amount has not been included in the total for B in subsection 225.2(2) of the Act for any reporting period of the financial institution, and

(ii) all amounts each of which would be, in the absence of an election under section 150 of the Act, an input tax credit of the financial institution for the particular reporting period in respect of a supply made at any time by the financial institution to another person that is a selected listed financial institution at that time, if tax under subsection 165(1) of the Act would have been payable in respect of the supply in the absence of that election and no election made by the financial institution and the other person under subsection 225.2(4) of the Act applies in respect of the supply,

G₉ is

(i) for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period, the lesser of the financial institution's percentage for the participating province for the taxation year and the financial institution's percentage for the participating province for the immediately preceding taxation year, each determined in accordance with the rules set out in Part 2 that apply to that financial institution,

(ii) despite subparagraph (i), for the purpose of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period in cases where the financial institution is a selected listed financial institution to which subsection 228(2.2) of the Act applies, the financial institution's percentage for the participating province for the reporting period immediately preceding the particular reporting period, determined in accordance with the rules set out in Part 2 that apply to that financial institution, and

(iii) in any other case, the financial institution's percentage for the participating province for the taxation year, determined in accordance with the rules set out in Part 2 that apply to that financial institution,

G_{10} is the tax rate for the participating province,

G_{11} is the rate set out in subsection 165(1) of the Act, and

G_{12} is the total of

(i) all amounts, each of which is an amount of tax deemed to have been paid by the financial institution under paragraph 180(d) of the Act during the particular reporting period to the extent that the amount is in respect of tax paid by another person under subsection 165(2) or section 212.1 of the Act and has not been included in the total for F in subsection 225.2(2) of the Act for any reporting period of the financial institution,

(ii) all amounts, each of which is an amount determined for B in the formula in paragraph 172.1(5)(c) of the Act in respect of a supply that the financial institution was deemed to have received during the particular reporting period under paragraph 172.1(5)(d) of the Act,

(iii) all amounts, each of which is an amount determined for B in the formula in paragraph 172.1(6)(c) of the Act in respect of a supply that the financial institution was deemed to have received during the particular reporting period under paragraph 172.1(6)(d) of the Act, and

(iv) all amounts, each of which is an amount determined for B in the formula in paragraph 172.1(7)(c) of the Act in respect of a supply in respect of which the financial institution was deemed to have paid tax during the particular reporting period under paragraph 172.1(7)(d) of the Act;

(c) the positive or negative amount determined, for a participating province that is Ontario, Nova Scotia or British Columbia, by the formula

$$[(G_{13} - G_{14}) \times G_{15} \times (G_{16}/G_{17})] - G_{18}$$

where

G_{13} is the total of

(i) all amounts, each of which is an amount of tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act that was paid or became payable by the financial institution before the beginning of the reporting period of the financial institution that includes July 1, 2010 and in respect of which the financial institution has claimed an input tax credit in the return for the particular reporting period under Division V of Part IX of the Act, to the extent that the amount was included in the total for B in subsection 225.2(2) of the Act for the particular reporting period, and

(ii) if the particular reporting period begins before July 1, 2010 and ends on or after that day, all amounts, each of which is determined — in respect of tax that became payable under any of subsections 165(1) and sections 212 and 218 of the Act by the financial institution during the particular reporting period or that was paid by the financial institution without having become payable during the particular reporting period and that is in respect of property that is in whole or in part delivered

or made available, or in respect of a service that is rendered in whole or in part, after the particular reporting period — by the formula

$$(A - B) \times (C/D) \times E$$

A is the amount of that tax,

B is total of all input tax credits of the financial institution in respect of that tax,

C is the number of days in the particular reporting period before July 2010,

D is the total number of days in the particular reporting period, and

E is 100% less the extent (expressed as a percentage) to which the property is delivered or made available, or the service is rendered, before the end of the particular reporting period,

G₁₄ is the total of

(i) all amounts, each of which is an amount determined — in respect of tax that became payable under any of subsections 165(1) and sections 212 and 218 of the Act by the financial institution during the particular reporting period or that was paid by the financial institution without having become payable during the particular reporting period in respect of a supply or importation of property (other than real property) that is in whole or in part delivered or made available, of real property the ownership or possession of which is transferred or of a service that is rendered in whole or in part, before the reporting period of the financial institution that includes July 1, 2010 — by the formula

$$(A - B) \times (C/D) \times E$$

A is the amount of that tax,

B is total of all input tax credits of the financial institution in respect of that tax,

C is the number of days in the particular reporting period after June 2010,

D is the total number of days in the particular reporting period, and

E is, in the case of real property, 100% and, in any other case, the extent (expressed as a percentage) to which the property is delivered or made available, or the service is rendered, before the reporting period of the financial institution that includes July 1, 2010,

(ii) if the particular reporting period begins after June 2010, all amounts, each of which is an amount determined — in respect of tax that became payable under any of subsections 165(1) and sections 212 and 218 of the Act by the financial institution during the particular reporting period or that was paid by the financial institution without having become payable during the particular reporting period in respect of a supply or importation of property (other than real property) that is in whole or in part delivered or made available, of real property the ownership or possession of which is transferred or of a service that is rendered in whole or in part, during another reporting period of the financial institution that begins before July 1, 2010 and ends on or after that day — by the formula

$$(A - B) \times (C/D) \times E$$

where

A is the amount of that tax,

B is total of all input tax credits of the financial institution in respect of that tax,

C is the number of days in the other reporting period before July 2010,

D is the total number of days in the other reporting period, and

E is, in the case of real property, 100% and, in any other case, the extent (expressed as a percentage) to which the property is delivered or made available, or the service is rendered, during the other reporting period,

(iii) if the particular reporting period begins before July 1, 2010 and ends on or after that day, the amount determined by the formula

$$(A - B) \times (C/D)$$

A is the total of the following amounts, each of which is determined for the particular reporting period and the participating province:

(A) the total for A in subsection 225.2(2) of the Act,

(B) the total for G₂ in paragraph (a), and

(C) the total for G₇ in paragraph (b),

B is total of the following amounts, each of which is determined for the particular reporting period and the participating province:

(A) the total for B in subsection 225.2(2) of the Act,

(B) the total for G₃ in paragraph (a), and

(C) the total for G₈ in paragraph (b),

C is the number of days in the particular reporting period before July 2010, and

D is the total number of days in the particular reporting period,

G₁₅ is

(i) for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period, the lesser of the financial institution's percentage for the participating province for the taxation year and the financial institution's percentage for the participating province for the immediately preceding taxation year, each determined in accordance with the rules set out in Part 2 that apply to that financial institution,

(ii) despite subparagraph (i), for the purpose of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period in cases where the financial institution is a selected listed financial institution to which subsection 228(2.2) of the Act applies, the financial institution's percentage for the participating province for the reporting period immediately preceding the particular reporting period, determined in accordance with the rules set out in Part 2 that apply to that financial institution, and

(iii) in any other case, the financial institution's percentage for the participating province for the taxation year, determined in accordance with the rules set out in Part 2 that apply to that financial institution,

G_{16} is

- (i) if the participating province is Ontario or British Columbia, the tax rate for the participating province, and
- (ii) if the participating province is Nova Scotia, 2%,

G_{17} is the rate set out in subsection 165(1) of the Act, and

G_{18} is the total of all amounts, each of which is an amount of tax that was paid or became payable by the financial institution under any of subsection 165(2) and section 212.1 of the Act in respect of a supply or importation of property or a service in respect of which tax under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act was paid or became payable by the financial institution in the particular reporting period of the financial institution that ends after June 2010, to the extent that the amount has not been included in the total for F in subsection 225.2(2) of the Act for any reporting period of the financial institution, provided either that tax is payable in respect of the supply or importation under either of subsection 165(2) or section 212.1 of the Act as a consequence of the application of Part 3 of the *New Harmonized Value-added Tax System Regulations* or Divisions 2 and 3 of Part 9 of the *New Harmonized Value-added Tax System Regulations, No. 2* or that tax is payable at the rate of 10% in respect of the supply or importation under either of that subsection or section as a consequence of the application of the *Nova Scotia HST Regulations, 2010*;

(d) the positive or negative amount determined, for a participating province that is Ontario or British Columbia, by the formula

$$[G_{19} \times G_{20} \times (G_{21}/G_{22}) \times G_{23}] - G_{24}$$

where

G_{19} is

- (i) if the financial institution is a large business at any time in the particular reporting period, the total of all amounts, each of which is determined for a specified class of specified property or service by the formula

$$A \times B \times C$$

where

A is the total of

- (A) all amounts each of which is an amount of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act or an amount of tax included in subparagraph (vii) of the description of G_2 in paragraph (a)) that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution during the particular reporting period in respect of a supply or importation of property or a service multiplied by the specified

extent of the property or service in respect of the specified class for the participating province and for the particular reporting period,

(B) all amounts each of which is an amount of tax under subsection 165(1) of the Act in respect of a supply (other than a supply to which clause (C) applies) of property or a service made by a person to the financial institution that would, in the absence of an election under section 150 of the Act, have become payable by the financial institution during the particular reporting period multiplied by the specified extent of the property or service in respect of the specified class for the participating province and for the particular reporting period,

(C) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other person, the cost of financial services and tax under Part IX of the Act multiplied by the specified extent of the property or service in respect of the specified class for the participating province and for the particular reporting period,

(D) all amounts each of which is an amount of tax (other than an amount of tax that is a prescribed amount of tax for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act) that would have been payable under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution during the particular reporting period in respect of a supply or importation of property or a service multiplied by the specified extent of the property or service in respect of the specified class for the participating province and for the particular reporting period if,

(I) in the case where the property or a service is acquired or imported by the financial institution for consumption, use or supply exclusively in the course of commercial activities and, as a result of the consumption, use or supply exclusively in the course of commercial activities, no tax under section 212 or 218 of the Act is payable in respect of the acquisition or importation under that section, tax under section 212 or 218 of the Act had been payable in respect of the acquisition or importation,

(II) in the case of a supply of property or a service deemed under subsection 143(1) of the Act to have been made outside Canada, the supply had not been deemed to have been made outside Canada,

(III) in the case of a supply of property or a service that is deemed under Part IX of the Act to have been made for nil consideration, the supply had not been deemed to have been made for nil consideration, and

(IV) in the case of a supply of property or a service that is deemed under paragraph 273(1)(c) of the Act not to be a supply, the supply had not been deemed not to be a supply, and

(E) if the specified class is qualifying motor vehicles and the financial institution is engaged in the business of supplying motor vehicles by way of sale, all amounts each of which is determined — for a selected motor vehicle described in subparagraph (g)(i) of the definition “excluded property or service” in subsection 43(1) that was acquired or imported by the financial institution and is used by the financial institution, at any time in the particular reporting period, otherwise than exclusively for the purpose referred to in that subparagraph — by the formula

$$D \times E \times 2\%$$

where

- D is the amount of tax (other than an amount of tax that is a prescribed amount of tax for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act) that became payable at any time under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution in respect of a supply or importation of the selected motor vehicle, and
- E is the number of fiscal months in the particular reporting period during which the selected motor vehicle was used otherwise than exclusively for the purpose referred to in subparagraph (g)(i),
- B is the tax recovery rate of the financial institution for the specified class for the particular reporting period, and
- C is
- (A) in the case where the specified class is qualifying food, beverages and entertainment, 50%,
 - (B) in the case where the specified class is qualifying fuel and the participating province is British Columbia, 0%,
 - (C) in the case where the specified class is qualifying energy, the percentage determined by the formula

$$F/G$$

where

- F is the total of the specified salary and wages of each employee of the financial institution that are paid by the financial institution in the second last taxation year of the financial institution immediately preceding the particular reporting period for anything done by the employee in the course of, or in relation to, the office or employment of the employee in the province to the extent that it can reasonably be considered that those specified salary and wages are not attributable to the direct engagement by the employee in activities that are eligible scientific research and experimental development activities for the purposes of
- (I) if the participating province is Ontario, the *Taxation Act, 2007*, S.O. 2007, c. 11, Sch. A, and

(II) if the participating province is British Columbia, the *Income Tax Act*, R.S.B.C. 1996, c. 215, and

G is the total of the specified salary and wages of each employee of the financial institution that are paid by the financial institution in the second last taxation year of the financial institution immediately preceding the particular reporting period for anything done by the employee in the course of, or in relation to, the office or employment of the employee in the participating province, and

(D) in any other case, 100%, and

(ii) in any other case, zero,

G₂₀ is

(i) for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period, the lesser of the financial institution's percentage for the participating province for the taxation year and the financial institution's percentage for the participating province for the immediately preceding taxation year, each determined in accordance with the rules set out in Part 2 that apply to that financial institution,

(ii) despite subparagraph (i), for the purpose of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period in cases where the financial institution is a selected listed financial institution to which subsection 228(2.2) of the Act applies, the financial institution's percentage for the participating province for the reporting period immediately preceding the particular reporting period, determined in accordance with the rules set out in Part 2 that apply to that financial institution, and

(iii) in any other case, the financial institution's percentage for the participating province for the taxation year, determined in accordance with the rules set out in Part 2 that apply to that financial institution,

G₂₁ is the tax rate for the participating province,

G₂₂ is the rate set out in subsection 165(1) of the Act, and

G₂₃ is

(i) if the particular reporting period begins before July 1, 2010 and ends on or after that day, the amount determined by the formula

$$A/B$$

where

A is the number of days in the particular reporting period after June 2010 on which the financial institution was a large business, and

B is the number of days in the particular reporting period, and

(ii) if the particular reporting period begins on or after July 1, 2010, the amount determined by the formula

$$(A/B) \times (C/B)$$

where

[A is the total of all amounts, each of which is the recapture rate applicable on a day in the particular reporting period,]

B is the number of days in the particular reporting period, and

C is the number of days in the particular reporting period on which the financial institution was a large business, and

G_{24} is the total of all amounts, each of which is determined — for a selected motor vehicle that the financial institution, in the particular reporting period, either supplies by way of sale to a person that is not related to the financial institution or removes from Canada and in respect of the last acquisition or importation of which, in another reporting period of the financial institution (referred to in this paragraph as the “specified reporting period”), the financial institution included an amount in element G_{19} in determining its net tax for the specified reporting period — by the formula

$$A \times B \times (C/D) \times E \times (F/G)$$

where

A is the amount that the financial institution included in the description of G_{19} in the specified reporting period in respect of the last acquisition or importation of the property,

B is the tax recovery rate of the financial institution for qualifying motor vehicles for the specified reporting period,

C is the tax rate for the participating province,

D is the rate set out in subsection 165(1) of the Act,

E is the amount determined for G_{23} for the financial institution for the specified reporting period,

F is

(i) if the financial institution supplies the selected motor vehicle and the recipient of the supply is not dealing at arm’s length with the financial institution or if the financial institution removes the selected motor vehicle from Canada, the fair market value of the property at the time of the supply or removal, and

(ii) in any other case, the consideration for the supply by way of sale of the selected motor vehicle, and

G is the consideration in respect of the last acquisition, or the value in respect of the last importation, of the property by the financial institution in respect of which the amount determined under the description of A is attributable; and

(e) if the particular reporting period includes July 1, 2010, the negative amount determined for a participating province that is Nova Scotia, New Brunswick or Newfoundland and Labrador that is equal the negative value of the amount determined by the formula

$$G_{25} \times G_{26} \times 8/5$$

where

G₂₅ is the total of all amounts, each of which is an amount of tax that became payable under any of subsections 165(1) and sections 212 and 218 of the Act by the financial institution during a reporting period of the financial institution that precedes the particular reporting period, or that was paid by the financial institution without having become payable during a reporting period of the financial institution that precedes the particular reporting period, in respect of a supply or importation of property or service for consumption or use exclusively in Ontario or British Columbia, to the extent that the amount is included in the total for A in subsection 225.2(2) of the Act for the particular reporting period and is not included in the total for B in that subsection for any reporting period of the financial institution, provided that tax is payable in respect of the supply or importation under any of subsection 165(2) and section 212.1 of the Act as a consequence of the application of Part 3 of the *New Harmonized Value-added Tax System Regulations* or Divisions 2 and 3 of Part 9 of the *New Harmonized Value-added Tax System Regulations, No. 2*, and

G₂₆ is

(i) for the purposes of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period, the lesser of the financial institution's percentage for the participating province for the taxation year and the financial institution's percentage for the participating province for the immediately preceding taxation year, each determined in accordance with the rules set out in Part 2 that apply to that financial institution,

(ii) despite subparagraph (i), for the purpose of calculating under paragraph 228(2.1)(a) of the Act the interim net tax of the financial institution for the particular reporting period in cases where the financial institution is a selected listed financial institution to which subsection 228(2.2) of the Act applies, the financial institution's percentage for the participating province for the reporting period immediately preceding the particular reporting period, determined in accordance with the rules set out in Part 2 that apply to that financial institution, and

(iii) in any other case, the financial institution's percentage for the participating province for the taxation year, determined in accordance with the rules set out in Part 2 that apply to that financial institution.

PART 5

INVESTMENT PLANS

INTERPRETATION

Definitions

47. For the purposes of this Part,

(a) "attribution point", "particular period" and "specified investor" have the meaning assigned by subsection 14(1); and

(b) "investor percentage" has the same meaning as in section 28.

NET TAX ADJUSTMENT FOR INVESTMENT PLANS

Adaptation of
subsection
225.2(2) —
stratified plans

48. (1) In applying subsection 225.2(2) of the Act in determining the net tax for a particular reporting period in a fiscal year that ends in a taxation year of a stratified investment plan, the formula in that subsection and the descriptions in that formula are adapted as follows:

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

where

A is the total of all positive or negative amounts, each of which is determined for a series of the financial institution (other than a provincial series of the financial institution for the fiscal year) and is equal to

(a) if an election under section 49 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* is in effect in respect of the series throughout the particular reporting period, the total of all amounts, each of which is determined for a particular day in the particular reporting period, by the formula

$$(A_1 - A_2) \times A_3$$

where

A₁ is the total of

(i) all amounts of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to those Regulations) in respect of a supply or importation of property or a service that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 by the financial institution on the particular day or that was paid by the financial institution on the particular day without having become payable, to the extent that the property or service was acquired or imported for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations,

(ii) all amounts each of which is tax under subsection 165(1) in respect of a supply (other than a supply to which subparagraph (iii) applies) of property or a service made by a person (other than a person that is prescribed for the purposes of paragraph (b) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to those Regulations) to the financial institution that would, in the absence of an election made under section 150, have become payable by the financial institution on the particular day, to the extent that the property or service was acquired for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations, and

(iii) all amounts each of which is an amount, in respect of a supply made on the particular day of property or a service to which an election made by the financial institution and another person under subsection (4) applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other

person, the cost of financial services and tax under this Part, to the extent that the property or service was acquired for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations,

A₂ is the total of

(i) all amounts, each of which is an input tax credit (other than an input tax credit in respect of an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to those Regulations) of the financial institution for the particular reporting period or preceding reporting periods of the financial institution in respect of the acquisition or importation of property or a service that is claimed by the financial institution in the return under this Division filed by the financial institution for the particular reporting period, to the extent that the property or service was acquired or imported for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations, provided that the amount was not included in the determination of A₂ for any other day in the particular reporting period, and

(ii) all amounts each of which would be an input tax credit of the financial institution for the particular reporting period of the financial institution in respect of property or a service if tax became payable during the reporting period in respect of the supply of the property or service and that tax were equal to the amount included for the series for any day in the particular reporting period under subparagraph (ii) or (iii) of the description of A₁ in respect of the supply, provided that the amount was not included in the determination of A₂ for any other day in the particular reporting period, and

A₃ is the financial institution's percentage for the series and for the participating province, determined for financial institutions of that class in accordance with Part 2 of those Regulations,

(i) if the election under section 49 of those Regulations in respect of the series indicates that the financial institution's percentages for the series are to be determined on a monthly basis, as of the first day of the calendar month that includes the particular day, or

(ii) in any other case, as of the particular day,

(b) if no election under section 49 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* is in effect in respect of the series throughout the particular reporting period, the amount determined by the formula

$$(A_4 - A_5) \times A_6$$

where

A₄ is the total of

(i) all amounts of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read

without reference to any adaptations made pursuant to those Regulations) in respect of a supply or importation of property or a service that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 by the financial institution during the particular reporting period or that was paid by the financial institution during the particular reporting period without having become payable, to the extent that the property or service was acquired or imported for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations,

(ii) all amounts each of which is tax under subsection 165(1) in respect of a supply (other than a supply to which subparagraph (iii) applies) of property or a service made by a person (other than a person that is prescribed for the purposes of paragraph (b) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to those Regulations) to the financial institution that would, in the absence of an election made under section 150, have become payable by the financial institution during the particular reporting period, to the extent that the property or service was acquired for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations, and

(iii) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection (4) applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other person, the cost of financial services and tax under this Part, to the extent that the property or service was acquired for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations,

A₅ is the total of

(i) all amounts, each of which is an input tax credit (other than an input tax credit in respect of an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to those Regulations) of the financial institution for the particular reporting period or preceding reporting periods of the financial institution in respect of the acquisition or importation of property or a service that is claimed by the financial institution in the return under this Division filed by the financial institution for the particular reporting period, to the extent that the property or service was acquired or imported for consumption, use or supply in the course of the activities relating to the series, as determined under section 52 of those Regulations, and

(ii) all amounts each of which would be an input tax credit of the financial institution for the particular reporting period of the financial institution in respect of property or a service if tax became payable during the particular reporting period in respect of the supply of the property or service and that tax were equal to the amount included for the particular reporting period under subparagraph (ii) or (iii) of the description of A₄ in respect of the supply, and

A₆ is

(i) if an election under section 50 of those Regulations is in effect throughout the particular reporting period, the financial institution's percentage for the series and for the participating province for the taxation year, determined for financial institutions of that class in accordance with Part 2 of those Regulations, or

(ii) in any other case, the financial institution's percentage for the series and for the participating province for the immediately preceding taxation year of the financial institution, determined for financial institutions of that class in accordance with Part 2 of those Regulations;

B is the tax rate for the participating province;

C is the rate set out in subsection 165(1);

D is the total of

(a) all amounts of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of F in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) under subsection 165(2) in respect of supplies made in the participating province to the financial institution, or under section 212.1 in respect of goods imported by the financial institution for use in the participating province, that became payable, or that was paid without having become payable, by the financial institution during any reporting period of the financial institution, if

(i) where the amount of tax became payable or was paid by the financial institution during a reporting period of the financial institution other than the particular reporting period,

(A) the other reporting period precedes the particular reporting period,

(B) the particular reporting period ends within two years after the end of the financial institution's fiscal year that includes the other reporting period, and

(C) the financial institution was a selected listed financial institution throughout the other reporting period,

(ii) in determining the net tax for any reporting period of the financial institution other than the particular reporting period, the amount of tax was not included in

(A) if subsection 225.2(2) was adapted by section 48 of those Regulations in respect of the other reporting period, the total for D, or

(B) in any other case, the total for F, and

(iii) the amount of tax is claimed by the financial institution in a return under this Division filed by the person for the particular reporting period, and

(b) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection (4) applies, equal to tax payable by the other person under any of subsections 165(2), sections 212.1 and 218.1

and Division IV.1 that is included in the cost to the other person of supplying the property or service to the financial institution; and

E is the total of all amounts, each of which is an amount that is prescribed for the purposes of the description of G in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

Adaptation of
subsection
225.2(2) —
non-stratified
plans with
real-time

(2) In applying subsection 225.2(2) of the Act in determining the net tax for a particular reporting period in a fiscal year that ends in a taxation year of a non-stratified investment plan and throughout which an election under section 49 is in effect, the formula in that subsection and the descriptions in that formula are adapted as follows:

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

where

A is the total of all positive or negative amounts, each of which is determined for a particular day in the particular reporting period by the formula

$$(A_1 - A_2) \times A_3$$

where

A₁ is the total of

(a) all amounts of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) in respect of a supply or importation of property or service that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 by the financial institution on the particular day or that was paid by the financial institution on the particular day without having become payable,

(b) all amounts each of which is tax under subsection 165(1) in respect of a supply (other than a supply to which paragraph (c) applies) of property or a service made by a person (other than a person that is prescribed for the purposes of paragraph (b) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) to the financial institution that would, in the absence of an election made under section 150, have become payable by the financial institution on the particular day, and

(c) all amounts each of which is an amount, in respect of a supply made on the particular day of property or a service to which an election made by the financial institution and another person under subsection (4) applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other person, the cost of financial services and tax under this Part,

A₂ is the total of

(a) all amounts, each of which is an input tax credit (other than an input tax credit in respect of an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) of the financial institution for the particular reporting period or preceding reporting periods of the financial institution claimed by the financial institution in the return under this Division filed by the financial institution for the particular reporting period, provided that the amount was not included in the determination of A₂ for any other day in the particular reporting period, and

(b) all amounts each of which would be an input tax credit of the financial institution for the particular reporting period of the financial institution in respect of property or a service if tax became payable during the reporting period in respect of the supply of the property or service and that tax were equal to the amount included for any day in the particular reporting period under paragraph (b) or (c) of the description of A₁ in respect of the supply, provided that the amount was not included in the determination of A₂ for any other day in the particular reporting period, and

A₃ is the financial institution's percentage for the participating province, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*,

(a) if the election under section 49 of those Regulations indicates that the financial institution's percentages are to be determined on a monthly basis, as of the first day of the calendar month that includes the particular day, or

(b) in any other case, as of the particular day;

B is the tax rate for the participating province;

C is the rate set out in subsection 165(1);

D is the total of

(a) all amounts of tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of F in subsection 225.2(2), read without reference to any adaptations made pursuant to *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) under subsection 165(2) in respect of supplies made in the participating province to the financial institution, or under section 212.1 in respect of goods imported by the financial institution for use in the participating province, that became payable, or that was paid without having become payable, by the financial institution during any reporting period of the financial institution, if

(i) where the amount of tax became payable or was paid by the financial institution during a reporting period of the financial institution other than the particular reporting period,

(A) the other reporting period precedes the particular reporting period,

(B) the particular reporting period ends within two years after the end of the financial institution's fiscal year that includes the other reporting period, and

(C) the financial institution was a selected listed financial institution throughout the other reporting period,

(ii) in determining the net tax for any reporting period of the financial institution other than the particular reporting period, the amount of tax was not included in

(A) if subsection 225.(2) was adapted by section 48 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* in respect of the other reporting period, the total for D, or

(B) in any other case, the total for F, and

(iii) the amount of tax is claimed by the financial institution in a return under Division V filed by the person for the particular reporting period, and

(b) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection (4) applies, equal to tax payable by the other person under any of subsection 165(2), sections 212.1 and 218.1 and Division IV.1 that is included in the cost to the other person of supplying the property or service to the financial institution; and

E is the total of all amounts, each of which is an amount that is prescribed for the purposes of the description of G in subsection 225.2(2), read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

Adaptation of C
in subsection
225.2(2) of the
Act

(3) If neither subsection (1) nor (2) applies in respect of a particular reporting period in a fiscal year that ends in a taxation year of an investment plan and no election under section 50 is in effect throughout the fiscal year, in determining the net tax for the particular reporting period, the description of C in the formula in subsection 225.2(2) of the Act is adapted to be read as “is the financial institution’s percentage for the participating province for the immediately preceding taxation year, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”.

Adaptation of
subsection
225.2(7)

(4) In determining the net tax for a reporting period in respect of which subsection (1) or (2) applies, the reference in subsection 225.2(7) of the Act to “the description of F in subsection (2)” is adapted to be read as a reference to “the description of D in subsection (2) as adapted by section 48 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”.

Instalment base
— non-stratified
plan with
real-time

(5) If an investment plan is a non-stratified investment plan and an election under section 49 is in effect throughout a fiscal year of the investment plan or if an investment plan is a stratified investment plan and an election under that section is in effect in respect of every series of the investment plan throughout a fiscal year of the investment plan, subsection 237(1) of the Act is adapted as follows for each reporting period of the investment plan in the fiscal year:

237. (1) If the reporting period of a registrant is a fiscal year or a period determined under subsection 248(3), the registrant shall, within one month after the end of each fiscal quarter of the registrant ending in the reporting period, pay to the Receiver General an instalment

equal to the amount that would be the net tax of the registrant for the fiscal quarter if the fiscal quarter were a reporting period of the registrant.

Instalment base
— stratified plan

(6) If an investment plan is a stratified investment plan, subsection (5) does not apply in respect of a reporting period of the investment plan and an election under section 50 is in effect throughout the reporting period, the following rules apply:

(a) the description of A in the formula in subparagraph 237(2)(a)(i) of the Act is adapted for the reporting period to be read as “is the amount that would be the net tax for the particular reporting period if the description of A₆ in the third formula in subsection 225.2(2), as adapted by subsection 48(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, were read as “is the financial institution’s percentage for the series and for the participating province for the immediately preceding taxation year of the financial institution, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”, and”; and

(b) subparagraph 237(2)(a)(ii) of the Act is adapted as follows for the reporting period:

(ii) in any other case, the amount that would be the net tax for the particular reporting period if the description of A₆ in the third formula in subsection 225.2(2), as adapted by subsection 48(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, were read as “is the financial institution’s percentage for the series and for the participating province for the immediately preceding taxation year of the financial institution, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”, and

Instalment base
— other
investment plans

(7) If neither subsection (5) nor (6) applies in respect of a reporting period of an investment plan and an election under section 50 is in effect throughout the reporting period, the following rules apply:

(a) the description of A in the formula in subparagraph 237(2)(a)(i) of the Act is adapted for the reporting period to be read as “is the amount that would be the net tax for the particular reporting period if the description of C in the formula in subsection 225.2(2) were read as “is the financial institution’s percentage for the participating province for the immediately preceding taxation year of the financial institution, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”, and”; and

(b) subparagraph 237(2)(a)(ii) of the Act is adapted as follows for the reporting period:

(ii) in any other case, the amount that would be the net tax of the person for the particular reporting period if the description of C in the formula in subsection 225.2(2) were read as “is the financial institution’s percentage for the participating province for the immediately preceding taxation year of the financial institution, determined for financial institutions of that class in accordance with Part 2 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*”, and

Interim
remittance —
reconciliation or
real-time

(8) If no election under section 50 is in effect throughout a fiscal year of an investment plan, if an investment plan is a non-stratified investment plan and an election under section 49 is in effect throughout a fiscal year of the investment plan or if an investment plan is a

stratified investment plan and an election under that section is in effect in respect of every series of the investment plan throughout a fiscal year of the investment plan, paragraph 228(2.1)(a) of the Act is adapted as follows for each reporting period of the investment plan in the fiscal year:

(a) the person shall calculate in the interim return the amount (in this Part referred to as the “interim net tax”) that is the net tax of the person for the reporting period; and

Interim
remittance —
stratified plans

(9) If an investment plan is a stratified investment plan and subsection (8) does not apply in respect of a reporting period of the investment plan, paragraph 228(2.1)(a) of the Act is adapted as follows for the reporting period:

(a) the person shall calculate in the interim return the amount (in this Part referred to as the “interim net tax”) that would be the net tax of the person for the reporting period if the description of A_6 in the third formula in subsection 225.2(2) of the Act, as adapted by subsection 48(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, were read as “is the financial institution’s percentage for the series and for the participating province for the immediately preceding taxation year, determined in accordance with the prescribed rules that apply to stratified investment plans”; and

Interim
remittance —
other cases

(10) If neither subsection (8) nor (9) applies in respect of a reporting period of an investment plan, paragraph 228(2.1)(a) of the Act is adapted as follows:

(a) the person shall calculate in the interim return the amount (in this Part referred to as the “interim net tax”) that would be the net tax of the person for the reporting period if the description of C in the formula in subsection 225.2(2) were read as “is the financial institution’s percentage for the participating province for the immediately preceding taxation year, determined in accordance with the prescribed rules that apply to financial institutions of that class”; and

First fiscal year
— instalment
base and interim
remittance

(11) In respect of each reporting period in a fiscal year of an investment plan, subsections 228(2.2) and 237(5) of the Act do not apply.

Election for
real-time
calculation —
stratified plans

49. (1) A stratified investment plan that is a selected listed financial institution may make an election in respect of a series of the plan for the purposes of these Regulations and subsection 225.2(2) of the Act, as adapted by subsection 48(1), which election shall be effective from the first day of a fiscal year of the investment plan.

Election for
real-time
calculation —
non-stratified
plans

(2) A non-stratified investment plan that is a selected listed financial institution may make an election in respect of the plan for the purposes of these Regulations and subsection 225.2(2) of the Act, as adapted by subsection 48(2), which election shall be effective from the first day of a fiscal year of the investment plan.

Restriction

(3) An election made under subsection (1) in respect of a series of an investment plan or under subsection (2) in respect of an investment plan shall not become effective if, on the day on which the election is to come into effect,

(a) an election under section 50 by the investment plan is in effect; or

(b) an election under subsection 51(1) in respect of the series, or an election under subsection 51(2) in respect of the investment plan, is in effect.

Form of election	<p>(4) An election made under subsection (1) in respect of a series of an investment plan or under subsection (2) in respect of an investment plan shall</p> <p>(a) be made in prescribed form containing prescribed information;</p> <p>(b) set out the first fiscal year of the investment plan during which the election is to be in effect; and</p> <p>(c) indicate whether the investment plan's percentages, or the investment plan's percentages for the series, are to be determined on a daily basis or a monthly basis.</p>
Cessation	<p>(5) An election made by a person that is an investment plan under subsection (1) in respect of a series of the investment plan or under subsection (2) in respect of the investment plan ceases to have effect on the earliest of</p> <p>(a) if, on a day in a particular fiscal year of the person, subsection 29(4) applies in respect of the series or subsection 31(4) applies in respect of the investment plan, the first day of the fiscal year of the person immediately following the particular fiscal year;</p> <p>(b) the first day of the fiscal year of the person in which the person ceases to be an investment plan or a selected listed financial institution or becomes an exchange-traded fund or a mortgage investment corporation; and</p> <p>(c) the day on which a revocation of the election becomes effective.</p>
Revocation	<p>(6) An investment plan that has made an election under subsection (1) or (2) may revoke the election, effective on the first day of a fiscal year of the investment plan that begins at least three years after the election became effective.</p>
Restriction	<p>(7) If a particular election made under subsection (1) or (2) ceases to have effect on a particular day, any subsequent election under subsection (1) or (2) is not a valid election unless the first day of the fiscal year set out in the subsequent election is at least three years after the particular day.</p>
Election for reconciliation	<p>50. (1) An investment plan that is a selected listed financial institution may make an election for the purposes of section 48 and subsection 225.2(2) of the Act, as adapted by subsection 48(1), which election shall be effective from the first day of a fiscal year of the investment plan.</p>
Restriction	<p>(2) An election under subsection (1) by an investment plan shall not become effective on a day if, on the day on which the election is to come into effect, an election under subsection 49(1) in respect of a series of the investment plan, or an election under subsection 49(2) in respect of the investment plan, is in effect.</p>
Form of election	<p>(3) An election made under subsection (1) by an investment plan shall</p> <p>(a) be made in prescribed form containing prescribed information; and</p> <p>(b) set out the first fiscal year of the investment plan during which the election is to be in effect.</p>
Cessation	<p>(4) An election made under subsection (1) by a person that is an investment plan ceases to have effect on the earlier of</p> <p>(a) the first day of the fiscal year of the person in which the person ceases to be an investment plan or a selected listed financial institution; and</p>

	(b) the day on which a revocation of the election becomes effective.
Revocation	(5) An investment plan that has made an election under subsection (1) may revoke the election, effective on the first day of a fiscal year of the investment plan that begins at least three years after the election became effective.
Restriction	(6) If a particular election made under subsection (1) ceases to have effect on a particular day, any subsequent election under that subsection is not a valid election unless the first day of the fiscal year set out in the subsequent election is at least three years after the particular day.
Attribution point election — series	51. (1) A stratified investment plan that is a selected listed financial institution may make an election in respect of a series of the investment plan for the purposes of the definition “attribution point” in subsection 14(1), which election shall be effective from the first day of a fiscal year of the investment plan.
Attribution point election — investment plan	(2) An investment plan (other than a stratified investment plan) that is a selected listed financial institution may make an election in respect of the investment plan for the purposes of the definition “attribution point” in subsection 14(1), which election shall be effective from the first day of a fiscal year of the investment plan.
Restriction	(3) An election under subsection (1) in respect of a series of an investment plan shall not become effective if, on the day on which the election is to come into effect, an election under subsection 49(1) in respect of the series is in effect.
Restriction	(4) An election under subsection (2) in respect of an investment plan shall not become effective if, on the day on which the election is to come into effect, an election under subsection 49(2) in respect of the investment plan is in effect.
Form of election	(5) An election made under subsection (1) or (2) by an investment plan shall <ul style="list-style-type: none"> (a) be made in prescribed form containing prescribed information; (b) set out the first fiscal year of the investment plan during which the election is to be in effect; and (c) specify whether the attribution points in respect of the series or plan are to be quarterly, monthly, weekly or daily.
Cessation	(6) An election made under subsection (1) or (2) by a person that is an investment plan ceases to have effect on the earlier of <ul style="list-style-type: none"> (a) the first day of the fiscal year of the person in which the person ceases to be an investment plan or a selected listed financial institution; and (b) the day on which a revocation of the election becomes effective.
Revocation	(7) An investment plan that has made an election under subsection (1) or (2) may revoke the election, effective on the first day of a fiscal year of the investment plan that begins at least three years after the election became effective.
Restriction	(8) If a particular election made under subsection (1) or (2) ceases to have effect on a particular day, any subsequent election under subsection (1) or (2) is not a valid election unless the first day of the fiscal year set out in the subsequent election is at least three years after the particular day.

ALLOCATION OF EXPENSES TO A SERIES

Allocation of expenses to a series

52. (1) For the purposes of these Regulations and subsection 225.2(2) of the Act, as adapted by subsection 48(1) or (2), and subject to subsections (2) and (3), for every property or service that a stratified investment plan acquires, imports or brings into a participating province, the stratified investment plan shall determine the extent to which the property or service is acquired, imported or brought in for consumption, use or supply in the course of the activities relating to each series of the stratified investment plan.

Restriction

(2) For every property or service that is acquired, imported or brought into a participating province by a stratified investment plan, the total of all amounts, each of which is an extent, expressed as a percentage, in respect of the property or service determined pursuant to subsection (1), shall equal 100%.

Method of allocating expenses

(3) The methods used by a stratified investment plan to determine the extent to which properties or services are acquired, imported or brought into a participating province for consumption, use or supply in the course of the activities relating to each of its series shall be fair and reasonable and shall be used consistently throughout a fiscal year of the stratified investment plan.

INFORMATION SHARING

Production of provincial attribution percentage

53. (1) Every person (other than an individual or a specified investor in the investment plan) that is resident in Canada and that holds units of a distributed investment plan (other than an exchange-traded fund) that is a selected listed financial institution shall, at the request of the investment plan, provide to the investment plan the investor percentage of the person for every participating province as of September 30 of the calendar year set out in the request, and the number of units held as of that day by the person in the investment plan and, if applicable, in each series of the investment plan, on or before the particular day that is the later of

- (a) November 15 of that calendar year; and
- (b) 45 days after the day on which the person received the request.

Production of address — specified investors

(2) Every person that is resident in Canada and that is a specified investor in a distributed investment plan (other than an exchange-traded fund) that is a selected listed financial institution shall, at the request of the investment plan, provide to the investment plan the address of the person that determines the person's province of residence pursuant to section 6 as of September 30 of the calendar year set out in the request and the number of units held as of that day by the person in the investment plan and, if applicable, in each series of the investment plan, on or before the particular day that is the later of

- (a) November 15 of that calendar year; and
- (b) 45 days after the day on which the person received the request.

Production of address — securities dealers

(3) Every person that sells or distributes units of a distributed investment plan (other than an exchange-traded fund) that is a selected listed financial institution shall, at the request of the investment plan, provide, for each participating province, the number of units of the investment plan, and, if applicable, the number of units of each series of the investment plan, held by clients or customers of the person resident in the participating province as of September 30 of the calendar year set out in the request, and the total number of units of the

investment plan, and, if applicable, the number of units of each series of the investment plan, held by clients resident in Canada as of that day, on or before the particular day that is the later of

(a) November 15 of that calendar year; and

(b) 45 days after the day on which the person received the request.

Amounts
required for
provincial
attribution
percentage

(4) A distributed investment plan that obtains any information in respect of a person pursuant to any of subsections (1) to (3) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under the Act, these Regulations or any other regulation made under the Act, the information without the written consent of the person.

Penalty —
failure to provide
information

(5) Every particular person that fails to provide, on request made by a distributed investment plan pursuant to any of subsections (1) to (3), the information described in that subsection to the distributed investment plan on or before the particular day described in that subsection, or that misstates such information to the distributed investment plan, is liable to a penalty, for each such failure, equal to the lesser of \$10,000 and 0.01% of the total of all amounts, each of which is the value, as of September 30 of the calendar year set out in the request, of the units of the distributed investment plan in respect of which the particular person was required to give information to the investment plan pursuant to that subsection.

Failure to request
information

(6) For the purposes of sections 29 to 32, if no election under section 49 is in effect in respect of a distributed investment plan, or in respect of a series of a distributed investment plan, throughout a fiscal year of the investment plan, the distributed investment plan fails to request, on or before October 15 of that fiscal year, information in respect of units of the investment plan or of the series, as the case may be, pursuant to whichever of subsections (1) to (3) is applicable in respect of those units and the investment plan does not, on or before December 31 of that fiscal year, know the information described in that subsection in respect of those units, the following rules apply:

(a) those units are deemed to be held on September 30 of the fiscal year by an individual;

(b) the individual referred to in paragraph (a) is deemed to be resident on that day in any one of the participating provinces with the highest tax rate; and

(c) the investment plan is deemed to know the province of residency on that day of the individual referred to in paragraph (a).

REPORTING ELECTIONS

Reporting entity
election

54. (1) An investment plan that is a selected listed financial institution and the manager of the investment plan may jointly elect to have the manager file the returns of the investment plan under Division V of Part IX of the Act, which election shall be effective from the first day of a fiscal year of the investment plan.

Effect of election

(2) Despite section 238 of the Act, if an election made by a manager and an investment plan under subsection (1) is in effect on a particular day on or before which a return under Division V of Part IX of the Act for a reporting period of the investment plan is required to be filed, the return for the reporting period shall be filed with the Minister by the manager in prescribed manner.

Consolidated filing election	<p>55. (1) A manager and any two or more investment plans with which the manager has jointly made an election under subsection 54(1) may jointly elect to file the returns of those investment plans on a consolidated basis, which election shall be effective from the first day of a fiscal year of those investment plans.</p>
Restriction	<p>(2) A joint election under subsection (1) by two or more investment plans and the manager of those investment plans that is to come into effect on the first day of a fiscal year of one of those investment plans may only be made if</p> <p style="padding-left: 20px;">(a) the beginning and ending of the respective fiscal years of those investment plans coincide with each other; and</p> <p style="padding-left: 20px;">(b) the beginning and ending of the respective reporting periods of those investment plans in the fiscal year of each of those investment plans coincide with each other.</p>
Effect of election	<p>(3) Despite section 238 of the Act, if a joint election, made under subsection (1) by two or more investment plans and the manager of those investment plans, is in effect on a day on or before which the returns under Division V of Part IX of the Act for a reporting period of those investment plans is required to be filed, the manager shall file in prescribed manner with the Minister a single joint return for the reporting period in prescribed form containing prescribed information on behalf of those investment plans and those investment plans are each not required to file the return for the reporting period.</p>
Tax adjustment transfer election	<p>56. (1) An investment plan that is a selected listed financial institution and the manager of the investment plan may jointly elect to transfer the investment plan's adjustments to net tax under subsection 225.2(2) of the Act to the manager, which election shall be effective from the first day of a fiscal year of the investment plan.</p>
Effect of election	<p>(2) If an election under subsection (1) by a manager and an investment plan is in effect throughout a reporting period of the investment plan that ends in a particular reporting period of the manager, the following rules apply:</p> <p style="padding-left: 20px;">(a) for each reporting period (each of which is referred to in this paragraph as an "eligible reporting period") of each particular investment plan that ends in the particular reporting period of the manager and throughout which an election under subsection (1) by the particular investment plan and the manager is in effect,</p> <p style="padding-left: 40px;">(i) if an election under subsection 54(1) by the particular investment plan and the manager is in effect throughout the eligible reporting period of the investment plan, subsection 225.2(2) of the Act does not apply in respect of the eligible reporting period of the particular investment plan, and</p> <p style="padding-left: 40px;">(ii) in any other case, for the purposes of paragraph (a) of the description of A and paragraph (a) of the description of F in subsection 225.2(2) of the Act, any amount of tax that became payable by the particular investment plan, or that was paid by the particular investment plan without having become payable, during the eligible reporting period of the particular investment plan in respect of a specified service, as defined in subsection 261.31(1) of the Act, that is supplied by the manager to the particular investment plan is a prescribed amount of tax; and</p> <p style="padding-left: 20px;">(b) in respect of the particular reporting period of the manager,</p>

(i) if the manager is a selected listed financial institution throughout the particular reporting period of the manager, for the purpose of the description of G in subsection 225.2(2) of the Act, the following positive or negative amounts are prescribed amounts:

(A) the total of all amounts, each of which is — for a reporting period of a particular investment plan (referred to in this clause as a “qualifying reporting period”) that ends in the particular reporting period of the manager and throughout which elections under subsection (1) and under subsection 54(1) made jointly by the manager and the particular investment plan are in effect — the amount (in this section referred to as the “tax adjustment amount”) that is the total of the positive amounts that the particular investment plan would be required to add, and the negative amounts that the particular investment plan would be able to deduct, in determining its net tax under subsection 225.2(2) of the Act, having regard to any applicable adaptations made under these Regulations to that subsection, for the qualifying reporting period if these Regulations were read in the absence of this section; and

(B) the total of all amounts, each of which is — for a reporting period of a particular investment plan (referred to in this clause as a “qualifying reporting period”) in respect of which clause (A) does not apply that ends in the particular reporting period of the manager and throughout which an election under subsection (1) made jointly by the manager and the particular investment plan is in effect — the amount (in this section referred to as the “specified service adjustment amount”) that is the total of the positive amounts that the particular investment plan would be required to add, and the negative amounts that the particular investment plan would be able to deduct, in determining its net tax under subsection 225.2(2) of the Act, having regard to any applicable adaptations made under these Regulations to that subsection, for the qualifying reporting period if

(I) any specified service tax — being an amount of tax that became payable by the particular investment plan, or that was paid by the particular investment plan without having become payable, during the particular reporting period in respect of a specified service, as defined in subsection 261.31(1) of the Act, that is supplied by the manager to the particular investment plan — were not a prescribed amount of tax for the purposes of paragraph (a) of the description of A and paragraph (a) of the description of F in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to this Part,

(II) the only amounts included in determining those positive or negative amounts were amounts of specified service tax referred to in subclause (I) and input tax credits of the financial institution in respect of those amounts of specified service tax, and

(III) these Regulations were read in the absence of this section, and

(ii) if the manager is not a selected listed financial institution throughout the particular reporting period of the manager, subsection 225.2(2) of the Act is adapted in respect of the particular reporting period as follows:

(2) In determining the net tax for a particular reporting period in a fiscal year of a manager of one or more investment plans (each of which is referred to in this subsection as a “qualifying investment plan”) that are selected listed financial institutions, the reporting periods

(each of which is referred to in this subsection as a “qualifying reporting period”) of which end in the particular reporting period of the manager, the manager shall add all positive amounts, and may, if the manager has paid or credited the negative amount to the qualifying investment plan, deduct any such negative amounts, each of which is determined, for a qualifying reporting period of a qualifying investment plan, by applying the following rules:

(a) if elections made jointly by the manager and the qualifying investment plan under subsections 54(1) and 56(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* are in effect throughout the qualifying reporting period of the qualifying investment plan, the amount is the total of the positive amounts that the qualifying investment plan would be required to add, and the negative amounts that the qualifying investment plan would be able to deduct, in determining its net tax under this subsection, having regard to any applicable adaptations made under those Regulations to this subsection, for the qualifying reporting period if those Regulations were read in the absence of section 56;

(b) if paragraph (a) does not apply and an election made jointly by the manager and the qualifying investment plan under subsection 56(1) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* is in effect throughout the qualifying reporting period of the qualifying investment plan, the amount is the total of the positive amounts that the qualifying investment plan would be required to add, and the negative amounts that the qualifying investment plan would be able to deduct, in determining its net tax under this subsection, having regard to any applicable adaptations made under those Regulations to this subsection, for the qualifying reporting period if

(i) any specified service tax — being an amount of tax that became payable by the qualifying investment plan, or that was paid by the qualifying investment plan without having become payable, during the qualifying reporting period in respect of a specified service, as defined in subsection 261.31(1), that is supplied by the manager to the qualifying investment plan — were not a prescribed amount of tax for the purposes of paragraph (a) of the description of A and paragraph (a) of the description of F in this subsection, read without reference to any adaptations made pursuant to Part 5 of those Regulations, and

(ii) the only amounts included in determining those positive or negative amounts were amounts of specified service tax referred to in subparagraph (i) and input tax credits of the financial institution in respect of those amounts of specified service tax; and

(c) in any other case, the amount for the qualifying period of the qualifying investment plan is nil.

Restriction

(3) Despite clauses (2)(b)(i)(A) and (B), a tax adjustment amount, or a specified service adjustment amount, that is determined in respect of a reporting period of an investment plan and that is a negative amount shall not be included in determining, pursuant to subparagraph (2)(b)(i), a prescribed amount in respect of a reporting period of a manager for the purpose of the description of G in subsection 225.2(2) of the Act unless the manager has paid or credited the tax adjustment amount or the specified service amount, as the case may be, to the investment plan.

Elections —
form and filing

57. (1) An election made under any of sections 54 to 56 by a manager and one or more investment plans shall

- (a) be made in prescribed form containing prescribed information;
- (b) set out the first fiscal year of the investment plans during which the election is to be in effect; and
- (c) be filed with the Minister in prescribed manner before the first day of that first fiscal year or such later day as the Minister may allow.

Cessation

(2) An election made under any of sections 54 to 56 by a person ceases to have effect on the earliest of

- (a) if the person is a manager of an investment plan with which it has made the election, the first day of the fiscal year of the investment plan in which the person ceases to be the manager of the investment plan;
- (b) if the person is an investment plan, the first day of the fiscal year of the person in which the person ceases to be an investment plan or a selected listed financial institution;
- (c) if the person is a manager or an investment plan and the election is made under section 55, the first day of a fiscal year of the person in which any investment plan that made the election ceases to have the same reporting periods as any of the other investment plans that made the election; and
- (d) in any case, the day on which a revocation of the election becomes effective.

Revocation —
section 54

(3) An investment plan that has made an election under section 54 may revoke the election, effective on the first day of a fiscal year of the investment plan, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective.

Revocation —
section 55

(4) The investment plans that have jointly made an election under section 55 may jointly revoke the election, effective on the first day of a fiscal year of the investment plans, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective.

Revocation —
section 56

(5) If a manager and an investment plan that have jointly made an election under section 56, the manager or the investment plan may revoke the election, effective on the first day of a fiscal year of the investment plan, by filing in prescribed manner with the Minister a notice of revocation in prescribed form containing prescribed information not later than the day on which the revocation is to become effective.

Restriction

(6) A revocation under this section made by one or more persons of a joint election shall only be effective if one of those persons notifies, before the day on which the revocation is to come into effect, all persons that made the joint election and that are not making the revocation.

Joint and several
liability —
section 54 or 56

58. (1) If an election made under section 54 or 56 by a manager and an investment plan is in effect throughout a reporting period of the investment plan, the manager and the investment plan are jointly and severally, or solidarily, liable for

- (a) the net tax for the reporting period; and
- (b) any interest or penalties in respect of the net tax for the reporting period or in respect of a return under Division V of Part IX of the Act for the reporting period.

Joint and several liability — section 55

(2) If an election made under section 55 by a manager and two or more investment plans is in effect throughout a reporting period of one of those investment plans, the manager and those investment plans are jointly and severally, or solidarily, liable for

(a) the net tax for the reporting period; and

(b) any interest or penalties in respect of the net tax for the reporting period or in respect of a return under Division V of Part IX of the Act for the reporting period.

2010 TRANSITIONAL RULES FOR INVESTMENT PLANS

New Selected Listed Financial Institutions

Exclusion from subsection 225.2(2) formula

59. If an investment plan is a selected listed financial institution throughout the particular taxation year in which the fiscal year of the investment plan that includes July 1, 2010 ends and was not a selected listed financial institution throughout the taxation year of the investment plan that immediately precedes the particular taxation year, for the purposes of paragraph (a) of the description of A and paragraph (a) of the description of F in subsection 225.2(2) of the Act any amount of tax under Part IX of the Act that became payable by the investment plan before that day or that was paid by the investment plan before that day without having become payable is a prescribed amount of tax.

Attribution Point

Attribution point — non-stratified investment plan

60. (1) For the purposes of this Part and Part 2 and despite the definition “attribution point” in subsection 14(1), if an investment plan is a non-stratified investment plan and no election under section 51 is in effect in respect of the investment plan throughout the particular fiscal year of the investment plan that includes July 1, 2010, “attribution point” in respect of the investment plan for the particular taxation year of the investment plan in which the particular fiscal year ends and for the taxation year immediately preceding the particular taxation year means the day determined by the investment plan that is on or after July 1, 2009 and before July 1, 2010.

Attribution point — series of a stratified investment plan

(2) For the purposes of this Part and Part 2 and despite the definition “attribution point” in subsection 14(1), if an investment plan is a stratified investment plan and no election under section 51 is in effect in respect of a series of the investment plan throughout the particular fiscal year of the investment plan that includes July 1, 2010, “attribution point” in respect of the series for the particular taxation year of the investment plan in which the particular fiscal year ends and for the taxation year immediately preceding the particular taxation year means the day determined by the investment plan that is on or after July 1, 2009 and before July 1, 2010.

Percentages for Distributed Investment Plans

Stratified investment plan

61. (1) Despite section 30, if a selected listed financial institution is a stratified investment plan other than an exchange-traded fund, no election under section 49 is in effect in respect of any series of the financial institution throughout the particular fiscal year of the financial institution that includes July 1, 2010, no election is in effect under section 50 throughout the particular fiscal year and the financial institution has elected in prescribed form containing prescribed information to have this subsection apply to all series of the financial institution, for each participating province in which the financial institution has a

permanent establishment in the particular fiscal year, the financial institution's percentage for each series and for the participating province for each specified taxation year that is the particular taxation year of the financial institution in which the particular fiscal year ends or the taxation year of the financial institution immediately preceding the particular taxation year is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the series for the specified taxation year by the formula

$$(A_1 + A_2)/A_3$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the series that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the attribution point,

A₂ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by

(a) if the investment plan knows the person's investor percentage for every participating province as of the attribution point, the person's investor percentage for the participating province as of the attribution point,

(b) if paragraph (a) does not apply and the person is resident in the province, 100%, and

(c) in any other case, 0%, and

A₃ is the total of all amounts, each of which is the total value of the units of the series that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the series for the specified taxation year.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a series and for a participating province for a taxation year pursuant to subsection (1), if, for any attribution point in respect of the series for the taxation year, the total of the total value of the units of the series that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and of the total value of the units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows either the province of residency as of the attribution point or the investor percentage of the person for every participating province as of the attribution point is 90% or more of the total value of the units of the series that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine the amounts for A₁, A₂ and A₃ in the second formula in that subsection for the attribution point, only use information relating to the unit holders of the series for which it knows the province of residency as of the attribution point and unit holders of the series for which it knows the investor percentage for every participating province as of the attribution point.

Attribution of unit holders to a participating province

(3) For the purposes of subsection (1), if, for any attribution point in respect of a series of an investment plan for a taxation year, the total of the total value of the particular units of the series that are held by individuals or specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point, and the total value of the particular units of the series that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows either the province of residency as of the attribution point or the investor percentage of the person for every participating province as of the attribution point is less than 90% of the value of the units of the series that are held by persons resident in Canada as of the attribution point, the following rules apply:

(a) the units of the series other than the particular units are deemed to be held as of the attribution point by an individual; and

(b) the individual referred to in paragraph (a) is deemed to be resident as of the attribution point in the participating province with the highest tax rate as of July 1, 2010.

Non-stratified investment plans

62. (1) Despite section 32, if a selected listed financial institution is a non-stratified investment plan (other than an exchange-traded fund) in respect of which no election under any of sections 49 and 50 is in effect throughout the particular fiscal year of the financial institution that includes July 1, 2010 and the financial institution has elected in prescribed form containing prescribed information to have this subsection apply, for each participating province in which the financial institution has a permanent establishment in the particular fiscal year, the financial institution's percentage for the participating province for each specified taxation year that is the particular taxation year of the financial institution in which the particular fiscal year ends or the taxation year of the financial institution immediately preceding the particular taxation year is the percentage determined by the formula

$$A/B$$

where

A is the total of all amounts, each of which is determined for an attribution point in respect of the financial institution for the specified taxation year by the formula

$$(A_1 + A_2)/A_3$$

where

A₁ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by an individual, or a specified investor in the financial institution, resident in the participating province as of the attribution point,

A₂ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by a person resident in Canada that is neither an individual nor a specified investor in the financial institution multiplied by

(a) if the investment plan knows the person's investor percentage for every participating province as of the attribution point, the person's investor percentage for the participating province as of the attribution point,

(b) if paragraph (a) does not apply and the person is resident in the province, 100%, and

(c) in any other case, 0%, and

A₃ is the total of all amounts, each of which is the total value of the units of the investment plan that are held by a person resident in Canada as of the attribution point; and

B is the number of attribution points in respect of the financial institution for the specified taxation year.

Substantially all
of the value of
the units

(2) In determining an investment plan's percentage for a participating province for a taxation year pursuant to subsection (1), if, for any attribution point in respect of the investment plan for the taxation year, the total of the total value of the units of the investment plan that are held by individuals and specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point and of the total value of the units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows either the province of residency as of the attribution point or the investor percentage of the person for every participating province as of the attribution point is 90% or more of the total value of the units of the investment plan that are held by persons resident in Canada as of the attribution point, the investment plan shall, to determine for the attribution point the amounts for A₁, A₂ and A₃ in the second formula in that subsection, only use information relating to the unit holders of the investment plan for which it knows the province of residency as of the attribution point and unit holders of the investment plan for which it knows the investor percentage for every participating province as of the attribution point.

Attribution of
unit holders to a
participating
province

(3) For the purposes of subsection (1), if, for any attribution point in respect of an investment plan for a taxation year, the total of the total value of the particular units of the investment plan that are held by individuals or specified investors in the investment plan for which the investment plan knows the province of residency as of the attribution point, and the total value of the particular units of the investment plan that are held by persons, other than individuals or specified investors in the investment plan, for which the investment plan knows either the province of residency as of the attribution point or the investor percentage of the person for every participating province as of the attribution point is less than 90% of the value of the units of the investment plan that are held by persons resident in Canada as of the attribution point, the following rules apply:

(a) the units of the investment plan other than the particular units are deemed to be held as of the attribution point by an individual; and

(b) the individual referred to in paragraph (a) is deemed to be resident as of the attribution point in the participating province with the highest tax rate as of July 1, 2010.

Transition —
Ontario and
British Columbia

63. For the purposes of applying sections 59 to 62, Ontario and British Columbia are deemed to be participating provinces at any time.

PART 2

NEW HARMONIZED VALUE-ADDED TAX SYSTEM REGULATIONS

3. The *New Harmonized Value-added Tax System Regulations* are amended by adding the following after section 58:

Instalment base following harmonization

58.1 (1) Despite subsection 237(2) of the Act, if a registrant (other than a selected listed financial institution) to which subsection 237(1) of the Act applies is resident in a specified province and is not resident in Nova Scotia, New Brunswick or Newfoundland and Labrador and a reporting period of the registrant begins in 2010, for the purpose of determining the amount of instalment payments under subsection 237(1) of the Act, if any, that become payable after the first fiscal quarter of the registrant beginning on or after July 1, 2010, the registrant's instalment base for the reporting period is equal to the lesser of

- (a) the amount determined under paragraph 237(2)(a) of the Act; and
- (b) 240% of the amount determined under paragraph 237(2)(b) of the Act.

Instalment base following harmonization

(2) Despite subsection 237(2) of the Act, if a registrant (other than a selected listed financial institution) to which subsection 237(1) of the Act applies is resident in a specified province and in Nova Scotia, New Brunswick or Newfoundland and Labrador and a reporting period of the registrant begins in 2010, for the purpose of determining the amount of instalment payments under subsection 237(1) of the Act, if any, that become payable after the first fiscal quarter of the registrant beginning on or after July 1, 2010, the registrant's instalment base for the reporting period is equal to the amount determined under paragraph 237(2)(a) of the Act.

Selected listed financial institutions — instalments in transitional year

(3) Despite subsection 237(1) of the Act, if a particular reporting period of a selected listed financial institution (other than an investment plan, as defined in section 1 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) ends in a particular fiscal year ending in a taxation year of the financial institution and the particular fiscal year begins before July 1, 2010 and ends on or after that day, the instalment to be paid under that subsection within one month after the end of each fiscal quarter ending on or after that day in the particular reporting period is the amount determined under whichever of the following paragraphs the financial institution has elected in prescribed form to determine the instalments for those fiscal quarters under:

- (a) the lesser of
 - (i) 1/4 of the amount determined under paragraph 237(2)(a) of the Act, and
 - (ii) the amount determined by the formula

$$A + (B/4)$$

where

A is the total of all amounts, each of which is determined, for a harmonized province, by the formula

$$[C \times D \times (E/F) \times (G/365)]/H$$

where

C is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act,

D is the lesser of the financial institution's percentage for the harmonized province for the taxation year and the financial institution's percentage for the harmonized province for the immediately preceding taxation year, each determined in accordance with the prescribed rules that apply to that financial institution,

E is the tax rate for the harmonized province,

F is 5%,

G is the number of days in the particular reporting period after June 2010, and

H is the number of fiscal quarters ending on or after July 1, 2010 and in the particular reporting period, and

B is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act;

(b) the amount determined by the formula

$$A + (B/4)$$

where

A is the total of all amounts, each of which is determined, for a harmonized province, by the formula

$$[C \times D \times (E/F) \times (G/365)]/H$$

where

C is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act,

D is the financial institution's percentage for the harmonized province for the immediately preceding taxation year, determined in accordance with the prescribed rules that apply to that financial institution,

E is the tax rate for the harmonized province,

F is 5%,

G is the number of days in the particular reporting period after June 2010, and

H is the number of fiscal quarters ending on or after July 1, 2010 and in the particular reporting period, and

B is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act;

(c) the lesser of

- (i) 1/4 of the amount determined under paragraph 237(2)(a) of the Act, and
- (ii) the amount determined by the formula

$$A + B + (C/4)$$

where

- A is the total of all amounts, each of which is determined, for a harmonized province, by the formula

$$[(D - E) \times F \times (G/H) \times (I/365)] - J/K$$

where

- D is the total of

- (A) all tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution during the particular reporting period or that was paid by the financial institution during the particular reporting period without having become payable,

- (B) all amounts each of which is tax under subsection 165(1) of the Act in respect of a supply (other than a supply to which clause (C) applies) made to the financial institution that would, but for an election made under section 150 of the Act, have become payable by the financial institution during the particular reporting period, and

- (C) all amounts each of which is an amount, in respect of a supply made during the particular reporting period of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other person, the cost of financial services and tax under Part IX of the Act,

- E is the total of

- (A) all input tax credits (other than input tax credits in respect of an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) of the financial institution for the particular reporting period or preceding reporting periods of the financial institution claimed by the financial institution in the return under Division V of Part IX of the Act filed by the financial institution for the particular reporting period, and

- (B) all amounts each of which would be an input tax credit of the financial institution for the particular reporting period of the financial institution in respect of property or a service if tax became payable during the particular

reporting period in respect of the supply of the property or service equal to the amount included for the particular reporting period under clause (B) or (C) of the description of D in respect of the supply,

F is the lesser of the financial institution's percentage for the harmonized province for the taxation year and the financial institution's percentage for the harmonized province for the immediately preceding taxation year, each determined in accordance with the prescribed rules that apply to that financial institution,

G is the tax rate for the harmonized province,

H is 5%,

I is the number of days in the particular reporting period after June 2010,

J is the total of

(A) all tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of F in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) under subsection 165(2) of the Act in respect of supplies made in the harmonized province to the financial institution or under section 212.1 of the Act in respect of goods imported by the financial institution for use in the harmonized province that became payable by the financial institution during the fiscal quarter or that was paid by the financial institution during the fiscal quarter without having become payable, and

(B) all amounts each of which is an amount, in respect of a supply made during the fiscal quarter of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax payable by the other person under any of subsection 165(2), sections 212.1 or 218.1 of the Act or Division IV.1 of Part IX of the Act that is included in the cost to the other person of supplying the property or service to the financial institution, and

K is the number of fiscal quarters ending on or after July 1, 2010 and in the particular reporting period,

B is the total of all amounts that became collectible and all other amounts collected by the financial institution in the fiscal quarter as or on account of tax under subsection 165(2) of the Act, and

C is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act; or

(d) the amount determined by the formula

$$A + B + (C/4)$$

where

A is the total of all amounts, each of which is determined, for a harmonized province, by the formula

$$[(D - E) \times F \times (G/H) \times (I/365)] - J/K$$

where

D is the total of

(i) all tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) that became payable under any of subsection 165(1) and sections 212, 218 and 218.01 of the Act by the financial institution during a reporting period (in this paragraph referred to as the “earlier reporting period”) of the financial institution ending in the twelve-month period immediately preceding the particular reporting period or that was paid by the financial institution during the earlier reporting period without having become payable,

(ii) all amounts each of which is tax under subsection 165(1) of the Act in respect of a supply (other than a supply to which subparagraph (iii) applies) made to the financial institution that would, but for an election made under section 150 of the Act, have become payable by the financial institution during the earlier reporting period, and

(iii) all amounts each of which is an amount, in respect of a supply made during the earlier reporting period of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax calculated on the cost to the other person of supplying the property or service to the financial institution excluding any remuneration to employees of the other person, the cost of financial services and tax under Part IX of the Act,

E is the total of

(i) all input tax credits (other than input tax credits in respect of an amount of tax that is prescribed for the purposes of paragraph (a) of the description of A in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) of the financial institution for the earlier reporting period or preceding reporting periods of the financial institution claimed by the financial institution in the return under Division V of Part IX of the Act filed by the financial institution for the earlier reporting period, and

(ii) all amounts each of which would be an input tax credit of the financial institution for the earlier reporting period of the financial institution in respect of property or a service if tax became payable during the earlier reporting period in respect of the supply of the property or service equal to the amount included for the earlier reporting period under subparagraph (ii) or (iii) of the description of D in respect of the supply,

F is the financial institution's percentage for the harmonized province for the immediately preceding taxation year, determined in accordance with the prescribed rules that apply to that financial institution,

G is the tax rate for the harmonized province,

H is 5%,

I is the number of days in the particular reporting period after June 2010,

J is the total of

(i) all tax (other than an amount of tax that is prescribed for the purposes of paragraph (a) of the description of F in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) under subsection 165(2) of the Act in respect of supplies made in the harmonized province to the financial institution or under section 212.1 of the Act in respect of goods imported by the financial institution for use in the harmonized province that became payable by the financial institution during the fiscal quarter or that was paid by the financial institution during the fiscal quarter without having become payable, and

(ii) all amounts each of which is an amount, in respect of a supply made during the fiscal quarter of property or a service to which an election made by the financial institution and another person under subsection 225.2(4) of the Act applies, equal to tax payable by the other person under any of subsection 165(2), sections 212.1 or 218.1 of the Act or Division IV.1 of Part IX of the Act that is included in the cost to the other person of supplying the property or service to the financial institution, and

K is the number of fiscal quarters ending on or after July 1, 2010 and in the particular reporting period,

B is the total of all amounts that became collectible and all other amounts collected by the financial institution in the fiscal quarter as or on account of tax under subsection 165(2) of the Act, and

C is the financial institution's instalment base for the particular reporting period determined under paragraph 237(2)(b) of the Act as if the financial institution were not a selected listed financial institution and tax were not imposed under any of subsection 165(2), sections 212.1 and 218.1 of the Act and Division IV.1 of Part IX of the Act.

Information requirements

(4) For the purposes of this section, subsections 169(4) and (5) and 223(2) of the Act apply with respect to any amount that is included in the description of J in paragraphs (3)(c) and (d) as if that amount were an input tax credit.

Exclusions

(5) No amount of tax paid or payable by a selected listed financial institution in respect of property or services acquired, imported or brought into a harmonized province otherwise than for consumption, use or supply in the course of an endeavour (as defined in subsection 141.01(1) of the Act) of the financial institution shall be included in determining the instalment to be paid by the institution under subsection (3).

PART 3

NEW HARMONIZED VALUE-ADDED TAX SYSTEM REGULATIONS, NO. 2

4. The *New Harmonized Value-added Tax System Regulations, No. 2* are amended by adding the following after section 21:

Definitions

21.1 (1) In this section, “provincial series”, “stratified investment plan” and “unit” have the same meanings as in section 1 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

Distributed investment plans with provincial series

(2) In respect of a selected listed financial institution that is a stratified investment plan with one or more provincial series, subsection 261.31(2) of the Act is adapted by being read without reference to the words “other than a selected listed financial institution”.

Prescribed amount

(3) For the purposes of subsection 261.31(2) of the Act, the amount of a rebate payable under that subsection to a listed financial institution that is the recipient of a supply of a specified service in respect of which tax under subsection 165(2), 218.1(1) or 220.08(1) of the Act is payable is equal to

(a) if the listed financial institution is a selected listed financial institution that is a stratified investment plan with one or more provincial series,

(i) if the tax is payable under subsection 165(2) of the Act, the total of all amounts, each of which is determined for a provincial series of the listed financial institution by the formula

$$(A - B) \times C$$

where

A is the amount of that tax,

B is

(A) if the province in which the listed financial institution is permitted, under the laws of Canada or a province, to sell or distribute units of the provincial series is a participating province, the amount of tax that would have become payable under subsection 165(2) of the Act in respect of the supply if that tax were calculated at the tax rate for that province, and

(B) in any other case, zero, and

C is the extent (expressed as a percentage) to which the specified service was acquired for consumption or use in the course of the activities relating to the provincial series, as determined pursuant to section 52 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, and

(ii) if the tax is payable under subsection 218.1(1) or 220.08(1) of the Act, the total of all amounts, each of which is determined for a provincial series of the listed financial institution by the formula

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

where

D is the amount of that tax,

E is

(A) if the province in which the listed financial institution is permitted, under the laws of Canada or a province, to sell or distribute units of the provincial series is a participating province, the amount of tax that would have become payable under that subsection if the service were acquired by the listed financial institution for consumption, use or supply exclusively in that province, and

(B) in any other case, zero, and

F is the extent (expressed as a percentage) to which the specified service was acquired for consumption or use in the course of the activities relating to the provincial series, as determined pursuant to section 52 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*; and

(b) in any other case,

(i) if the tax is payable under subsection 165(2) of the Act, the amount determined by the formula

$$A - B$$

where

A is the amount of that tax, and

B is the total of all amounts, each of which is determined for a participating province by the formula

$$C \times D$$

where

C is the amount of tax that would have become payable under subsection 165(2) of the Act in respect of the supply if that tax were calculated at the tax rate for the participating province, and

D is the extent (expressed as a percentage) to which the listed financial institution may reasonably be regarded as holding or investing funds for the benefit of persons who are resident in the participating province, and

(ii) where the tax is payable under subsection 218.1(1) or 220.08(1) of the Act, the amount determined by the formula

$$E - F$$

where

E is the amount of that tax, and

F is the total of all amounts, each of which is determined for a participating province by the formula

$$G \times H$$

where

G is the amount of tax that would have become payable under that subsection if the service were acquired by the listed financial institution for consumption, use or supply exclusively in the participating province, and

H is the extent (expressed as a percentage) to which the listed financial institution may reasonably be regarded as holding or investing funds for the benefit of persons who are resident in the participating province.

Adaptation of section 263.01

(4) In respect of a selected listed financial institution that is a stratified investment plan with one or more provincial series, section 263.01 of the Act is adapted by adding the following after subsection (3):

Exception — stratified investment plan

(4) Despite subsection (1), a rebate under section 261.31 may be paid to a selected listed financial institution that is a stratified investment plan (as defined in section 1 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*) in respect of tax that became payable by the stratified investment plan, or that was paid by the stratified investment plan without having become payable, in respect of a supply of a service that was acquired in whole or in part for consumption, use or supply in the course of activities related to a provincial series (as defined in section 1 of those Regulations) of the stratified investment plan.

5. Paragraph 22(b) of the Regulations is replaced by the following:

(b) the total of all amounts, each of which is an amount of a rebate for which the person is otherwise eligible under any of sections 261.1 to 261.31 of the Act and in respect of which the rebate application is made, is at least \$25.

6. Paragraph 27(13)(b) of the Regulations is repealed.

7. Section 31 of the Regulations is amended by adding the following after subsection (6):

Selected listed financial institutions

(6.1) Despite subsections (2) to (5), no amount is to be added to the net tax of a person for a reporting period of the person as a consequence of those subsections in respect of a specified provincial input tax credit of the person in respect of an amount of tax that becomes payable by the person while the person is a selected listed financial institution unless the amount of tax

(a) is deemed to have paid by the person under subsection 171(1) or 171.1(2) of the Act; or

(b) is prescribed for the purposes of paragraph 169(3)(c) of the Act or paragraph (a) of the description of F in subsection 225.2(2) of the Act, read without reference to any adaptations made pursuant to the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

PART 4

ELECTRONIC FILING AND PROVISION OF INFORMATION (GST/HST) REGULATIONS

8. Section 4 of the *Electronic Filing and Provision of Information (GST/HST) Regulations* is replaced by the following:

Prescribed return

4. For the purposes of section 284.01 of the Act, a prescribed return for a reporting period of a person is

(a) a return for the reporting period that is required to be filed by way of electronic filing in accordance with subsection 278.1(2.1) of the Act; or

(b) if the person is a selected listed financial institution, a return under Division V of Part IX of the Act for the reporting period.

9. Section 5 of the Regulations is amended by adding the following after subsection (3):

Recaptured input
tax credits —
selected listed
financial
institutions

(4) For the purposes of section 284.01 of the Act, if, under paragraph 46(d) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, a person is required to add a positive amount or deduct a negative amount in determining the person's net tax for a reporting period, that amount is a prescribed amount in respect of a specified return for the reporting period.

10. The portion of section 7 of the Regulations before paragraph (a) is replaced by the following:

Penalty amount
— sections 5 and
6

7. The penalty under section 284.01 of the Act in respect of a particular amount that is in respect of a specified return for a particular reporting period of a person and that is prescribed, for the purposes of that section, by subsection 5(3) or (4) or section 6 is equal to the sum of

PART 5

FINANCIAL SERVICES (GST/HST) REGULATIONS

11. The long title of the *Financial Services (GST/HST) Regulations* is replaced by the following:

Financial Services and Financial Institutions (GST/HST) Regulations

12. Section 1 of the Regulations is repealed.

13. The Regulations are amended by adding the following after section 4:

PRESCRIBED QUALIFYING TAXPAYER FOR DIVISION IV OF PART IX OF THE ACT

5. For the purposes of subparagraph 217.1(1)(b)(iv) of the Act, a non-resident trust is a prescribed person if the total value of the assets of the trust in which one or more persons resident in Canada have a beneficial interest is

(a) equal to or greater than \$10,000,000; and

(b) equal to or greater than 10% of the total value of the assets of the trust.

PART 6

AMALGAMATIONS AND WINDINGS-UP CONTINUATION (GST/HST) REGULATIONS

14. The Schedule of the *Amalgamations and Windings-Up Continuation (GST/HST) Regulations* is amended by adding the following in numerical order:

Section 225.2

PART 7

APPLICATION

15. Sections 1, 6 and 7, and sections 1 to 3, paragraphs 4(a) and (d) to (f) and sections 5 to 17, 19 and 20, 22, 24 to 63 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, as enacted by section 2, apply in respect of a reporting period of a person that ends on or after July 1, 2010, except that no person is liable to a penalty under subsection 53(5) of those Regulations, as enacted by section 2, in respect of information that is required to be provided to an investment plan on or before the day on which these Regulations are published in the *Canada Gazette*.

16. Paragraphs 4(b) and (c) and sections 18, 21 and 23 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, as enacted by section 2, apply in respect of a reporting period in a fiscal year of a person that begins on or after July 1, 2010.

17. Part 2, sections 5, 11, and 12 and Part 6 are deemed to have come into force on July 1, 2010.

18. Section 4 applies

(a) to any supply made on or after July 1, 2010; and

(b) in respect of any consideration for a supply that becomes due, or is paid without having become due, on or after July 1, 2010.

19. Part 4 applies in respect of any reporting period of a person that ends on or after July 1, 2010, except that no person is liable to a penalty the amount of which is determined under section 7 of the *Electronic Filing and Provision of Information (GST/HST) Regulations* in respect of a particular amount that is

(a) in respect of a specified return for a reporting period that is filed before the day on which these Regulations are published in the *Canada Gazette*; and

(b) prescribed, for the purposes of section 284.01 of the *Excise Tax Act*, by subsection 5(4) of those Regulations.

20. Section 13 applies in respect of any specified year, as defined in section 217 of the *Excise Tax Act*, of a person that begins on or after July 1, 2010.