

Chapter 14

AN ACT TO AMEND THE INCOME TAX ACT

(Assented to December 4, 2001)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. The *Income Tax Act* is amended by this Act.

2. (1) The following provisions are amended by striking out "the Northwest Territories" or "the Territories" wherever it appears, and substituting "Nunavut":

- (a) the definition of "Commissioner" in subsection 1(1);
- (b) paragraph 2(1)(a) and subsection 2(2);
- (c) section 3.1;
- (d) paragraph 3.2(1)(b);
- (e) sections 4 and 4.1;
- (f) section 6.1;
- (g) sections 9 and 10;
- (h) subparagraph 26(2)(b)(i);
- (i) subsection 44(1);
- (j) paragraph 53(2)(b);
- (k) section 57;
- (l) sections 60, 61 and 62.

(2) The following provisions are amended by striking out "Supreme Court of the Northwest Territories" and "Supreme Court" wherever they appear, and substituting "Nunavut Court of Justice":

- (a) the heading of Division E;
- (b) sections 26, 27 and 28;
- (c) section 30.

3. (1) Subsection 1(1) is amended by adding the following in alphabetical order:

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

(2) The definition of "province" in subsection 1(1) is repealed and the following substituted:

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

(3) The portion of subsection 1(7) before paragraph (a) is struck out and the following substituted:

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

(4) Paragraph 1(7)(g) is repealed and the following substituted:

- (g) a reference in that section to a federal regulation or federal rule that applies for the purposes of this Act shall be read as a reference to the regulation or rule as it applies for the purposes of this Act;

(5) The Table following paragraph 1(7)(h) is repealed and the following is substituted:

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

4. Paragraph 2(1)(b) is repealed and the following substituted:

- (b) who, not being resident in Nunavut on the last day of the taxation year, had income earned in the taxation year in Nunavut as defined in section 2.1.

5. Section 3 is repealed and the following substituted:

Subdivision a - Computation of Tax

Definitions

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

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

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

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

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

"income for the year" means

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

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

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

Amount of tax payable

2.11. The tax payable under this Part for the 2001 and subsequent taxation years by an individual on his or her taxable income or taxable income earned in Canada, as the case may be, referred to in this Division as the "amount taxable", is:

- (a) if the amount taxable does not exceed \$30,754, 7.2% of the amount taxable;
- (b) if the amount taxable exceeds \$30,754 and does not exceed \$61,509, \$2,214 plus 9.9% of the amount by which the amount taxable exceeds \$30,754;
- (c) if the amount taxable exceeds \$61,509 and does not exceed \$100,000, \$5,259 plus 11.7% of the amount by which the amount taxable exceeds \$61,509; or
- (d) if the amount taxable exceeds \$100,000, \$9,762 plus 13.05% of the amount by which the amount taxable exceeds \$100,000.

Subdivision b - Adjustments to Tax

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

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

$$A \times B$$

where

A is the specific percentage for the year; and

B is the total of

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

Annual adjustment

2.13. (1) In this section, "relevant provision" means section 2.11, 2.14 to 2.2, 2.23 or 2.24.

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

- (a) the amount that would, but for subsection (3), be the amount to be used under the relevant provision for the preceding taxation year, and
- (b) the product obtained by multiplying
 - (i) the amount referred to in paragraph (a), by
 - (ii) the amount, adjusted in the manner that may be prescribed by federal regulations and rounded to the nearest one-thousandth, or, if the result obtained is equidistant from two consecutive one-thousandths, to the higher one-thousandth, that is determined by the formula:

$$A/B - 1$$

where

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

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

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

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

(5) For the purposes of paragraph (2)(a), the amount to be used under the relevant provision for the 2001 taxation year is deemed to be:

- (a) \$7,411.60485 with respect to paragraph (a) of the description of B in subsections 2.14(2) and 2.15(2);
- (b) \$6,293.26425 and \$629.8461, respectively, with respect to paragraph (b) of the description of B in subsections 2.14(2) and 2.15(2);
- (c) \$629.8461 with respect to the description of C in subsections 2.14(2) and 2.15(2);
- (d) \$7,411.60485 with respect to the description of B in section 2.16;
- (e) \$3,618.956263 with respect to the amount in section 2.2;

- (f) \$26,940.99135 with respect to the threshold amount in the description of B in section 2.2; and
- (g) \$1,677.5109 with respect to the description of C in section 2.23.

Subdivision c – Tax Credits and Deductions

Married or common-law status credit

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

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

$$A \times B$$

where

- A is the appropriate percentage for the year; and
- B is the total of

- (a) \$7,412, and
- (b) the amount determined by the formula
$$\$6,293 - (C - \$630)$$

where

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

(3) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section.

Amount for eligible dependant

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

- (a) is
 - (i) a person who is unmarried and who does not live in a common-law partnership, or
 - (ii) a person who is married or in a common-law partnership, who neither supported nor lived with his or her spouse or common-law partner and who is not supported by that spouse or common-law partner, and

- (b) whether alone or jointly with one or more other persons, maintains a self-contained domestic establishment in which the individual lives and actually supports in that establishment a person who, at that time,
 - (i) except in the case of a child of the individual, is resident in Canada
 - (ii) is wholly dependent for support on the individual, or the individual and the other person or persons, as the case may be,
 - (iii) is related to the individual, and
 - (iv) except in the case of a parent or grandparent of the individual, is either under 18 years of age or so dependent because of mental or physical infirmity.

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of

- (a) \$7,412; and

- (b) the amount determined by the formula

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

where

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

(3) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section.

Single status credit

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is \$7,412.

In-home care of relative credit

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

- (a) who has attained the age of 18 years before that time,

- (b) who is
 - (i) the individual's child or grandchild, or
 - (ii) resident in Canada and is the parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the individual or of the individual's spouse or common-law partner, and
- (c) who is
 - (i) the individual's parent or grandparent and has attained the age of 65 years before that time, or
 - (ii) dependent on the individual because of the particular person's mental or physical infirmity.

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the amount determined by the formula

$$\$15,453 - C$$

where

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

(3) Subsections 118(4) and (5) of the federal Act apply for the purposes of this section.

Dependant credit

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

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the amount determined by the formula

$$\$8,466 - C$$

where

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

(3) Subsections 118(4), (5) and (6) of the federal Act apply for the purposes of this section.

Additional amount for dependants

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

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

(3) Subsections 118(4), (5) and (6) of the federal Act apply for the purposes of this section.

Age credit

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

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

where

A is the appropriate percentage for the year; and

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

Pension credit

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the lesser of \$1,000 and

(a) where the individual has attained the age of 65 years before the end of the year, the pension income received by the individual in the year; and

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

(2) Subsections 118(7) and (8) of the federal Act apply for the purposes of this section.

Charitable donations credit

2.22. For the purpose of computing the tax payable under this Part by an individual for a taxation year, if the individual is entitled to a deduction under subsection 118.1(3) of

the federal Act for the year, there may be deducted such amount as the individual claims not exceeding the amount determined by the formula

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

where

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

Medical expense credit

2.23. For the purpose of computing the tax payable under this Part by an individual for a taxation year, if the individual is entitled to a deduction under subsection 118.2(1) of the federal Act for the year, there may be deducted an amount determined by the formula

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

where

- A is the appropriate percentage for the year;
- B is the amount determined for B in the formula in subsection 118.2(1) of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the year;
- C is the lesser of \$1,678 and 3% of the individual's income for the year; and
- D is 30.6% of the total of all amounts each of which is the amount, if any, by which
 - (a) the income for the year of a person, other than the individual and the individual's spouse or common-law partner, in respect of whom an amount is included in computing the individual's deduction under this section for the year, exceeds
 - (b) the amount used for B in section 2.16 for the year.

Credit for mental or physical impairment

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

(2) Sections 118.3 and 118.4 of the federal Act apply for the purposes of this section.

Tuition credit

2.25. Section 118.5 of the federal Act applies for the purposes of this Act, except that any reference to "appropriate percentage" in that section is to be read as a reference to "appropriate percentage" as defined in section 2.1.

Education credit

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of the products obtained when

- (a) \$400 is multiplied by the number of months in the year during which the individual is enrolled in a qualifying educational program as a full-time student at a designated educational institution, or as a part-time student at a designated educational institution if the part-time student has a physical or mental impairment; and
- (b) \$120 is multiplied by the number of months in the year, other than months described in paragraph (a), each of which is a month during which the individual is enrolled at a designated educational institution in a specified educational program that provides that each student in the program spend not less than 12 hours in the month on courses in the program.

(2) Section 118.6 of the federal Act applies for the purposes of this section, except that subsection (1) of this section applies instead of subsection 118.6(2) of the federal Act.

Unused tuition and education credits

2.27. (1) Section 118.61 of the federal Act applies for the purposes of this Act.

(2) Notwithstanding subsection (1), for the purpose of section 118.61 of the federal Act, as that section applies for the purposes of this Act, an individual's unused tuition and education tax credits at the end of the 2000 taxation year shall be the amount equal to the specific percentage of the individual's unused tuition and education tax credits at the end of the 2000 taxation year as determined under section 118.61 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year.

(3) Notwithstanding subsection (1) but subject to subsection (2), for the purpose of section 118.61 of the federal Act, as that section applies for the purposes of this Act, where an individual did not reside in Nunavut on the last day of the preceding taxation year, the individual's unused tuition and education tax credits at the end of the preceding taxation year shall be equal to the specific percentage of the individual's unused tuition and education tax credits at the end of the preceding taxation year as determined under section 118.61 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year.

Credit for interest on student loan

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

$$A \times B$$

where

A is the appropriate percentage for the year; and

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

Credit for EI premium and CPP contribution

2.29. Section 118.7 of the federal Act applies for the purposes of this Act, except that any reference to "appropriate percentage" in that section is to be read as a reference to "appropriate percentage" as defined in section 2.1.

Transfer of tax credits

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

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

(3) Notwithstanding subsections (1) and (2), for the purpose of section 118.81 of the federal Act, as that section applies for the purposes of this Act, where a person did not reside in Nunavut on the last day of the taxation year, the tuition and education tax credits transferred for the taxation year by the person to an individual shall be equal to the specific percentage of the amount determined in respect of the person under that section.

(4) Notwithstanding subsections (1) and (2), for the purpose of section 118.8 of the federal Act, as that section applies for the purposes of this Act, where in a taxation year an individual's spouse or common-law partner did not reside in Nunavut on the last day of the taxation year:

- (a) the amount for B in the formula in section 118.8 of the federal Act, as that section applies for the purpose of this Act, for the individual for the taxation year shall be equal to the specific percentage of the amount determined for B in the formula in section 118.8 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year; and
- (b) the amount for C in the formula in section 118.8 of the federal Act, as that section applies for the purpose of this Act, for the individual for the taxation year shall be equal to the specific percentage of the amount determined for C in the formula in section 118.8 of the federal Act for the purpose of computing the individual's tax payable under Part I of the federal Act for the taxation year.

Minimum tax carry-over

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

$$A \times B$$

where

A is the specific percentage for the year; and

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

Deduction for taxable dividends

2.32. Section 121 of the federal Act applies for the purposes of this Act, except that the reference to "2/3" in that section of the federal Act shall be read as a reference to "30%" for the purposes of this Act.

Overseas employment tax credit

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

Subdivision d – Restrictions on Credits and Other Rules

Part-year residents

2.34. Section 118.91 of the federal Act applies for the purposes of this Act.

Ordering of non-refundable credits

2.35. Section 118.92 of the federal Act applies for the purposes of this Act.

Credits in separate returns

2.36. Section 118.93 of the federal Act applies for the purposes of this Act.

Tax payable by non-resident

2.37. Section 118.94 of the federal Act applies for the purposes of this Act.

Credits in year of bankruptcy

2.38. Section 118.95 of the federal Act applies for the purposes of this Act.

Tax payable by *inter vivos* trust

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

Deductions not permitted for trusts

2.4. Subsection 122(1.1) of the federal Act applies for the purposes of this Act.

Bankrupt individuals

2.41. Subsection 128(2) of the federal Act applies for the purposes of this Act.

Subdivision e – Other Taxes Payable

Tax on split income

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

Minimum tax

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

$$A \times B$$

where

A is the specific percentage for the year; and

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

Subdivision f – Multi-jurisdictional and Non-resident Individuals

Multi-jurisdictional and non-resident individuals

2.44. (1) This section applies to an individual

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

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

$$A \times B/C$$

where

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

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

C is the individual's income for the year.

Non-Canadian income

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

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

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

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

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

(4) Notwithstanding any other provision of this Act, for the purposes of calculating the income of an individual under this Act with income from a business with a permanent establishment in Nunavut after April 1, 1999, Nunavut shall be deemed to have existed and to have had the same geographic boundaries as described in section 3 of the *Nunavut Act*, throughout the first fiscal period of the business ending after March 31, 1999.

6. Subsection 6.1(6) is repealed and the following substituted:

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

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

7. Paragraphs 9(1)(a) and (b) are repealed and the following substituted:

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

8. (1) Paragraph 26(2)(a) is amended by repealing clauses (ii) and (iii) and substituting the following:

- (ii) his or her income earned in the taxation year in Nunavut, as defined in section 2.1,
- (iii) the amount of tax payable for a taxation year under this Part,

(2) Subsection 26(2) is amended in the portion following subparagraph (b)(ii) by striking out "as defined in subsection 3(5)" and substituting "as defined in section 2.1".

9. Subsection 56(17) is amended:

- (a) **in paragraph (a) by striking out "as defined in subsection 3(5)" and substituting "as defined in section 2.1"; and**
- (b) **in paragraph (b) by striking out "as defined in subsection 3(5)" and substituting "as defined in section 2.1".**

10. This Act is deemed to have come into force on January 1, 2001.

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