Index

Α

Active business income, 677

Adjusted cost base (ACB)

- additions to cost, 527-528
- adjustments to cost, 527
- capital cost/actual cost, 524-525
- deductions from cost, 528
- deemed cost, 526-527
- introduction, 524
- nil cost, 526
- partnerships, 669-670
- personal-use property, 541-543
- property acquired before 1972, 526
- transition provisions, 526

Adventure in nature of trade, 300, 503-523. See also Income or capital gain

Alimony and maintenance, 610-613

- allowance, 612
- basic rules, 612-613
- child support payment reform, 610-611
- constitutionality, 611
- deduction-inclusion system, 610-613
- • repeal of, 611
- Federal Child Support Guidelines, 611
- legal fees, 719
- periodic payments or instalments of capital, 612-613
- third party payments, 612
- written agreement, 612

Allowable business investment loss, 499-500, 541

Allowable capital losses, 540-541

Allowances, 261-267

"Alter ego" trust, 64

Alternative minimum tax (AMT), 658-659

Amalgamations, 691-693

Analytical tools for tax analysis

- capitalization effect of taxes, 61-62
- deadweight loss of taxation, 67-68
- general theory of second best, 68-69
- incentive effect of taxes, 63-64

- inflation: nominal vs. real values, 56-58
- tax deferral and time value of money, 58-61
- • asset valuation, 60
- • future value, 58-59
- • present value, 59-60
- • value of tax deferral, 60-61
- tax incidence, 64-67

Anti-avoidance provisions, 757-795

- associated corporations, 677
- capital gains, 305, 498
- conversion rights, 690
- corporate finance, 697-699
- corporate reorganization, 690-691
- departure tax, 129, 546-547
- dividends, 680
- general anti-avoidance rule, (GAAR), 776-795
- introduction, 752
- judicial limits, 758-776
- partnerships, 671
- rollovers, 689-690
- trusts, 661

Appeals, 734-736

Assessments, 730-731

Associated corporations, 677

Attraction of tax law

- instrument of government policy, 3-4
- instrument of social and economic policy, 3-4
- intellectually exciting, 3, 5
- intellectually fascinating, 2-3
- personal interest, 1
- pervasiveness, 1
- political aspect, 3-4

Attribution rules

- gifts and non-arm's length transactions, 548-550
- transfer of family farm, 548
- transfer/loan to minors, 209-210
- transfer/loan to spouse, 220
- transfer to trust, 663-665

Automobile expenses, 268-270. See also Travelling expenses

Available-for-use rules, 492

Avoidance. See Tax avoidance

Award of damages, 720

В

Bad debts, 425

Beneficiary. See Trusts

Bonus/penalty on early redemption, 308

Business income

- accrual basis, 198
- adventure or concern in nature of trade, 300
- basic rules, 285, 286
- business or employment. See Employee or independent contractor
- capital gain or income. See Income or capital gain
- deductions. See Deductions from business/property
- distinguished from other sources, 300-303
- fiscal year end, 198
- gambling activities, 287, 289-290
- instalment payments, 197
- organized activity, 287-290
- profit, 285
- property income, distinguished, 286, 301-303
- pursuit of profit, 290-300
- reasonable expectation of profit, 290-300
- reporting period, 198
- server farms, 303
- what constitutes "business", 287-300

Business purpose test, 354, 742, 766-767

c

Canadian manufacturing and processing credit, 696

Canadian-controlled private corporations (CCPCs). See also Corporations

- active business income, 677
- associated corporations, 677
- corporate partnerships, 677
- defined, 673-678
- integration, 676
- inter-corporate dividends, 676
- investment income, 675, 767
- Part IV tax, 676
- RDTOH, 675-676, 694
- small business deduction, 675, 677

Capital cost allowance (CCA)

- acquisition of depreciable property, 490-493
- assets under construction, 491
- available-for-use rules, 491-492
- calculation, 476-482

- change of use, 489
- cost, meaning of, 487-490
- declining-balance method, 475
- disposition of depreciable assets, 482-486
- gift/bequest, 488
- half-year rule, 476, 492
- non-arm's length transactions, 489
- overview, 474-476
- part income/capital use, 489
- passenger vehicles, 475, 476, 489
- recapture, 476, 479, 482-488
- rental/leasing property restrictions, 486, 487
- replacement property rules, 486
- statutory regime, fundamentals of, 474-476
- straight-line method, 475
- terminal loss, 482-484
- undepreciated capital cost (UCC), 476, 483-484

Capital dividends, 663, 678, 680

Capital expenditures

- capital cost allowance. See Capital cost allowance (CCA)
- current vs. capital expenditure, 445-474
- • basic test: enduring benefit, 445-467
- • protection of intangible assets, 467-464
- • repair of tangible assets, 465-474
- Class 14.1, 493-496, 545
- introduction, 445

Capital gains

- adventure or concern in nature of trade, 503-523
- distinction between income and capital amounts, 500-523, See also Income or capital gain
- • characterization of transaction, 503-523
- • drawing distinction of adventure or concern in nature of trade, 503-523
- • conduct of taxpayer, 504-505
- • intention of taxpayer, 505, 508-511
- • isolated transactions, 505, 506, 511-516
- • IT-459, Adventure in Nature of Trade, 503-506
- • losses, 506
- • nature of property, 504-505
- • nature of the trade, 516-623
- expenses of disposition, 540
- framework, 523-547
- • adjusted cost base, See Adjusted cost base
- • capital gains deduction, See Capital gains deduction
- • capital losses, See Capital losses
- • change of residence, 581-582
- • disposition, See Disposition

- • international aspects, 545-547
- • non-residents, 704-705
- general overview and history, 497-500
- intra-family transfers
- • farm/fishing property, transfer of, 551
- • gifts and non-arm's length transactions, 548-550
- • realization vs. rollover treatment, 547-548
- • spousal transfers, 550-551
- non-recognition transactions, 538
- preferential tax rate, 497-500
- principal residence, 551-558
- replacement property rules, 537-538, 703
- reserve for future proceeds, 538-540
- rollover, 538
- • intra-family transfers, 547-551
- • spousal trust, 548

Capital gains deduction, 544-545

- qualified farm/fishing property, 545
- qualified small business corporation shares, 544

Capital gains stripping, 684-685

Capital losses, 540-544

- corporation, death of, 693-695
- depreciable property, 541
- listed personal property, 543
- netting and carryover, 540-541
- non-recognition, 541-544
- personal-use property, 441-543
- restrictions, 541-544
- superficial loss, 543-544

Capitalization of surplus, 681-682

Capitalizing employment benefits, 213-216

Carrying on business, non-resident, 141-156

- case law, 141-156
- purchasing of merchandise 145
- question of fact, 145
- soliciting orders, 141-145
- U.K. decisions, 141-145

Carter Commission

- child care, 586
- equity, 594
- income, defined, 75, 88
- losses, 91
- residence, 108

Charitable donations, 623-636, 711-712

- buy-low, donate-high flips, 629-632
- defined, 624-627
- Ecological Gifts Program, 635-636
- First-time Donor's Super Credit, 623
- leveraged gift arrangement, 632-634
- policy considerations, 623-624
- property gifts, 628

Charter of Rights and Freedoms

- aboriginal and treaty rights, 172
- child care expenses, 338-339, 586-587
- interpretation of tax statutes, 747-751

Child care expenses, 586-598

- boarding schools/camps, 586
- deduction by higher-income earner, 338-340, 586
- deduction vs. credit, 598
- history, 586
- policy issues and initiatives, 608-609
- recreational/educational, 598-700
- tax subsidy or cost of earning income, 587-598

Civil litigation

- damage awards, 720
- employment litigation, 722-723
- • non-taxable amounts, 722-723
- • retiring allowances, 722
- interest, 721
- legal fees, 721-722
- personal injury awards, 723-725
- • non-compensatory damages, 724
- • non-pecuniary loss, 724
- • pecuniary loss, 723-724
- • structured settlements, 724-725

Class 14.1 Expenditures

- eligible capital expenditure regime, replacement of, 494
- goodwill, 494-496
- statutory regime, 493-495

Commission salespersons, 274

Common-law partner, 549-550, 618-619, 621, 719-720, 751

Commuting expenses, 171, 345-353

Conversion rights, section 51 rollover, 686-690

Corporate and commercial law. See also Corporate distributions, and Corporate reorganizations

- choosing business format, 695-697
- • incorporation or partnership, 696-697
- • sole proprietorship or incorporation, 696
- commercial real estate, 701-705
- • characterization of gains and losses, 701
- • farm land, 705
- • fishing property, 705
- • inventory valuation, 702
- • life estates, 705
- • limitations on deductions, 702-703
- • non-residents, 704-705
- • reallocation of proceeds, 701
- • replacement property, 703
- • separate depreciable property classes for rental properties, 703
- • tenant inducement payments (TIPs), 396-403, 703
- corporate finance, 697-699
- • debt financing, 697-698
- • equity financing, 698
- • hybrid financing, 698-699
- • owner-managed businesses, financing, 699
- oil and gas, 699-701
- • disposition of resource properties, 701
- • flow-through shares, 594, 700
- • intangible expenditures, 699-700
- • successor rules, 700- 701

Corporate distributions

- basic scheme, 677
- capital dividends, 680
- capital gains stripping, 684-685
- deemed dividends, 681. See also Deemed dividends
- dividend-stripping, 684
- dividends in kind, 679-680
- shareholder benefits, 685
- shareholder loans, 685
- stock dividends, 679
- taxable dividends, 678-679
- • gross-up, 678-679

Corporate partnerships, 677

Corporate reorganizations, 686-695

- section 51, 690
- section 85, 686-689
- section 85.1, 689-690
- section 86, 690-691
- section 87, 691-693

• section 88, 693-695

Corporate rollovers

- amalgamations, 691-693
- conversion rights, 690
- corporate reorganizations, 686-695
- depreciable property, 686-687
- eligible capital property, 686-689
- introduction, 686
- inventory, 686-689
- non-depreciable capital property, 686-689
- section 85 rollover. See Section 85 rollover
- share consideration, 686-689
- share-for-share exchanges, 689-690
- winding-up, 693-695

Corporations. See also Corporate and commercial law

- Canadian manufacturing and processing credits, 696
- computation of income/taxable income, 674
- definitions, 673
- distributions. See Corporate distributions
- dividends, 674
- integration, 676
- inter-corporate dividends, 676
- other credits, 674-675
- overview of current system, 662-663
- private, 675-678. See also Canadian-controlled private corporations (CCPCs)
- provincial abatement, 675
- residence, 136-139
- tax credits, 674-675
- tax rates, 674
- taxation year, 674
- types, 673

CPP contributions, 616, 718

Credits

- adoption expense, 657
- basic personal, 618-619
- caregiver, 620
- dependent persons, 619
- Canada child benefit, dependent minors, 619-620
- charitable donations. See Charitable donations
- common law partner, 621
- corporations, 674-675
- dependent persons, 619
- disability, 645-653
- dividend tax, 319, 498, 678-679
- equivalent to spouse, 619, 621

- GST/HST, 657
- income-splitting credit (Family Tax Cut), 621
- medical expense. See Medical expense tax credit (METC)
- overview, 617-618
- political contributions, 657
- spousal, 619
- tuition, 653-656
- • tax-free scholarships, 655
- • registered education savings plans, grants and bonds, 656
- volunteer service, 657
- wholly dependent persons, 619
- working income tax benefit (WITB), 657

Criminal law

- defence of charges under Act, 726
- garnishment, 726
- illegal income, taxation of, 725
- legal fees, 726-727
- net worth assessments, 725-726

D

Damages and compensation, 720

Death See also Estates

- capital gains or losses, 707-708
- deductions, credits and exemptions, 710-713
- income, 706-707
- property transferred to spouse or common-law partner, 708-709
- returns, other, 713
- tainted conjugal trusts, 709

Deductions. See Deductions from business/property, Deductions from employment income

Deductions from business/property

- automotive expenses, 268-270
- business purpose test, 321-330
- CCA. See Capital cost allowance (CCA)
- child care expenses, 338-340
- commuting expenses, 345-353
- damage awards, 720
- educational expenses, 356
- entertainment expenses and business meals, 354-356
- fines/penalties, 364-371
- food and beverage expenses, 341-345
- general approach, 320-231
- home office expenses, 353-354
- illegal business, 357-363
- illegal payments, 271

- income-earning purpose test, 321-330
- interest expense, See Interest
- personal or living expenses, 330-356
- • "but for" test rejected, 338
- public policy considerations, 356-373
- reasonableness, 388-393
- remediation agreements, 372-273
- statutory provisions, 319-320
- theft/burglary/embezzlement losses, 371-372
- variability of expense, 331-338

Deductions from employment income

- automobile expenses, 268-270
- commission salespersons, 274
- commuting expenses, 268-274
- general limitation, 267-268
- home office expenses, 282-284
- legal expenses, 274-275
- meals, 267-268
- professional and union dues, 275-282
- reasonableness, 277-278
- travelling expenses, 268-274

Deemed dividends

- capitalization of surplus, 681-682
- distributions on winding-up/reorganization, 682
- paid-up capital, 681
- redemption/acquisition of shares, 683
- reduction of capital, 683-684

Deep discount debt obligations, 308

Defalcation losses, 372

See also Employee stock option plans

Departure tax, 129, 546-547

Depreciation. See Capital cost allowance (CCA)

Disability credit, 645-653

Discounts, 307-308

Disposition

- combined proceeds, 535-536
- corporation issuing stock, 533
- deemed, 533, 556-558
- expenses of, 540
- involuntary, 529-530
- issuance of debt/shares, 531, 533
- part dispositions, 535

- partitions of jointly owned property, 532
- reserve for future proceeds, 538-540
- rollover or non-recognition transactions, other, 538
- rollover treatment on reinvestment, 537-538
- statutorily excluded transactions, 531-533
- statutory definitions, 528-531
- timing of, 533-535
- transfers of property as security, 531-532
- transfers without change in ownership, 532-533

Dispute resolution. See Tax system

Dividend stripping, 684

Dividend tax credit, 319, 560, 682, 698

Dividends generally

- corporation, received by, 676
- meaning of "dividend", 318
- special treatment, 319

Dividends in kind, 679-680

Divorce

- attribution, 719
- child support payment reform, 610-611
- legal fees, 619
- personal credits, 618
- principal residence, 555
- spousal rollover, 551

Donations, 623-636

Double taxation, 158-159, 161, 286, 319, 527, 669, 689

Doubtful debt, 424-426

Dues, 267, 275-282, 325-329, 593, 595

Ε

Employee or independent contractor

- attempts at avoidance of office/employment, 212-216
- capitalizing employment benefits, 213-216
- characterization of working relationship, 198-216
- control tests, 198-199
- definitions, 198-199
- distinguishing between, 198-199
- interposing contract for services, 212
- interposing corporation/trust, 212
- total relationship/multiple criteria test, 199-216
- • T-4 reporting as factor, 209, 211
- traditional control test, 198-199

Employment income. See Office or employment

Entertainment expenses, 354-356

Environmental Law

- accelerated CCA, 727
- Canadian renewable and conservation expenses, 727
- gifts of ecologically sensitive land, 728
- qualifying environmental trust, 728

Estates. See also Trusts

- capital gains deduction, 711
- capital loss utilization, 711
- computation of tax, 711-713
- • charitable contributions, 711-712
- • medical expenses, 712-713
- income, 706-707
- property, 707-710
- • capital property, 707-708
- • other property, 709-710
- • property transferred to, or in trust, for spouse, 708-709
- reserves, 710-711
- separate returns, other, 713

Evasion. See Tax evasion

Exemptions from tax. See Indigenous people taxation

F

Family home. See Principal residence

Family law, 713-720

- conjugal rollovers, 718
- division of matrimonial property, 717-718
- • Canada Pension Plan, 718-719
- • pensions, 718
- • principle residence exemption, 717
- • RRSPs, 717-718
- domestic contracts, 719-720
- income attribution, 719
- legal fees, 719
- support payments, 714-717

Farm/fishing property

- rollover treatment, 551
- transfer of family farm, 551, 605

Fines, 364-371

Fiscal periods, 198

Food, beverages or entertainment, 341-345, 354-356, 379

Foreign tax credit, 158, 159, 161, 163, 663

Former business property, 486, 537, 603

G

Gambling activities, 227, 287, 289-290

General anti-avoidance rule (GAAR), 190, 210-211, 776-795. See also Anti-avoidance provisions

Gifts, 217, 222-227, 548-550

Goodwill, 388-390, 494-496

Gratuitous benefits, 227-230

Н

Haig-Simons formula, 47, 75, 571

Half-year rule, 477-482, 485, 492, 727

Hansard rule, 751-752

Home office expenses

- business, 353-354
- employment, 182-184, 199

ı

Illegal business, 357-363

Illegal payments, 371

Imputed income from property, 305-306

Income attribution. See Attribution rules

Income deduction. See Credits

Income from business or property. See Business income; Property income

Income from employment. See Office or employment

Income, source concept of. See Source concept of income

Income or capital gain

- adventure in nature of trade, 503-506
- • IT-459, 503-506
- British view, 500-503
- compared, 500-523
- conduct of taxpayer, 504
- intention, 505, 507-511
- isolated transactions, 505-506, 511-516

Income splitting, 100-105. See also Source concept of income

Income tax credits, 674-675

Income War Tax Act, 73, 261, 263, 321, 325-326, 328, 731

Independent contractor. See Employee or independent contractor

Indians. See Indigenous people taxation

Indigenous people taxation

- exemption or immunity from tax liability, 171-192
- • general exemption, 171-173
- • Income Tax Act, under, 191-192
- • Indian Act, under, 176-191
- • "connecting factors" to reserve, 180-182
- • narrowing exception, 182
- • treaty exemption, 173-176
- taxes imposed by First Nations, 193-196
- • Working Paper on Indian Government Taxation, 88, 194

Inducements. See Tenant induced payments (TIPs)

Ineffective transactions, 767, 769, 772-773

Inflation

- nominal vs real values, 162-164
- rates of tax, 28

Integration, 202-204, 676, 678

Inter vivos trust, 538, 661, 662-665

Inter-corporate dividends, 676

Interest

- automobile expense, 393
- blended payment or capitalized interest, 310-312
- bonuses, 308
- borrowed funds, indirect use, 373-374
- characterization as, 307-313
- discounts, 307-308
- expense deduction, 373-388
- late payment charges, 309-310
- meaning of, 307
- miscellaneous restrictions, 374
- participating payments, income bonds and indexed amounts, 309
- reasonableness, 388-393
- sale with accrued interest, 314
- source of income ceases to exist, 374
- timing of inclusion, 313-314

Interest-free loans, 252, 313, 318, 633

International taxation. See Treaties

Interpretation Act, 745-746

Interpretation of tax statutes

- ambiguities, 738-739
- Charter, 747-451
- Hansard rule, 751-752
- Interpretation Acts, 745-746
- modern approach, 739-745
- Official Languages Act, 746-747
- plain meaning, 740, 744-745
- principles, 69-71
- strict interpretation, 737-739
- teleological approach, 742

Inventory

- inventory accounting, 432-444
- "inventory" defined, 430
- inventory valuation
- • cost determination, 433-437
- • average cost method, 436-437
- • first-in, first-out (FIFO) method, 437
- • flow of inventory costs, 436
- • last-in, first-out (LIFO) method, 437
- • overhead costs, 435-436
- • fair market value, determination of, 432-433
- • replacement cost, 437
- • lower of cost and fair market value rule, 438-439
- • methods of valuation, 436-439

J

Jurisdiction to tax, 107-108

- citizenship or nationality, 107-108
- residence, 108. See also Residence; Residence of individuals
- source of income, 108

Justification for tax laws, normative

- role in achieving efficient allocation of resources, 10-17
- • correcting market failures, 15-17
- • major market failures, 13-17
- • asymmetric information, 14-15
- • cognitive limitations, 15
- • externalities, 14
- • incomplete markets, 15-17
- • public goods, 13
- role in achieving morally acceptable distribution of income, 17-20
- role in constituting marketplace, 9-10
- role in increasing rate of economic growth, 21-23
- role in stabilizing economy, 20-21
- why tax laws needed, 8-9

L

Legal fees/expenses, 274-275, 331-338, 361, 363, 583, 719, 721-722, 726-727

Lifetime capital gains deduction. See Capital gains deduction

LIFO inventory accounting, 436-437

Limited partnerships, 192, 669, 694-695

Loans

- interest on employee/shareholder, 685, 699
- interest-free/low interest, 252, 313, 633

Loss carryovers, 92, 93

Losses

• capital. See Capital losses

М

Maintenance payments. See Alimony and maintenance

Manufacturing and processing credits, 696-697

Marriage

• alimony and maintenance. See Alimony and maintenance

Meals, 217, 252, 267-268, 272-274, 341-345

Medical expense tax credit (METC), 636-645

- complementary and alternative medicines, 644
- cosmetic procedures, 643-644
- eligible expenses, 635-644
- medical travel expenses, 645
- surrogacy costs, 644-645

Methodology of tax law

- analytical reasoning, 47-48
- empirical reasoning, 50-55
- forms of reasoning, 45-46
- methodological pluralism, 55-56
- normative reasoning, 48-50

Motor vehicle operating expenses. See Automobile expenses

Moving expenses, 577-585

- causal connection and timing, 578-581
- change of residence, 581-582
- costs claimed, 582-585
- distance, 582
- expenses of relocation, 244-250, 577-578, 583
- key criteria, 578
- students, 585

Ν

Non-residents, 140-157

- capital gains deduction, not applicable, 704-705
- carrying on business. See Carrying on business
- commencement/cessation of residence, 129
- departure tax, 129, 546-547
- disposition of taxable Canadian property, 156, 157
- electronic commerce, 152
- employed in Canada, 141
- property income, 305
- returns, 545
- withholding tax, 157, 162-163, 680, 698, 704

0

OECD Model Convention, 161-163, 166

Office or employment,

- allowances, 161-167
- • distinction between reimbursement, adjustment and allowance, 263-266
- • housing subsidy, 261-262
- benefits. See Taxable benefits
- deductions. See Deductions from employment income
- definitions, 197
- employee or independent contractor. See Employee or independent contractor
- remuneration, other, 217
- retiring allowances, 722
- salary and wages, 217
- stock options. See Employee stock option plans
- taxable benefits. See Taxable benefits
- valuation of benefit, 253-261

Official Languages Act, 746-747

Ordinarily resident, 109-112, 120, 123, 129-130, 133-134, 582

P

Paid-up capital (PUC), 318, 681, 700

Part dispositions, 535

Part IV tax, 676

Partnerships

- adjusted cost base, 669-670
- allocation to partners, 668
- anti-avoidance provisions, 668
- at-risk rules, 669
- continuation of business by new partnership, 672
- continuation of business by sole proprietor, 672

- corporate, 677
- definitions, 666-667
- distribution to all partners, 671-673
- fiscal period, 667-669
- foreign commercial entity, 667
- general rule, 667-669
- income determined at partnership level, 667
- limited, 669
- overview of taxation, 667-669
- partnership interest,669-670
- retired partner, 669
- transfer of partnership interest or property, 671-673
- transfer of property to, 670-671
- transfer of property to corporation, 671
- what are they, 666-667

Part-time residence, 126-129

Passenger vehicles, 393, 475, 489

Payments based on production/use, 305-317

Penalties, 364-371, 732-733

Petroleum and natural gas, 699-701

Preferred beneficiary election, 662

Preferred shares, 688, 698

Prepaid expenses, 422-423

Principal residence,

- absence from home, 555
- boarders, 558
- calculation of exemption, 558
- change in use, 556-558
- deemed disposition, 556-558
- exemption,551-558, 717
- "housing unit", 553
- marital breakdown, 555
- multiple residences, 554-555
- "ordinarily inhabited", 552
- rental of dwelling, 555
- size of property, 552-554

Private corporations, 569. See also Canadian-controlled private corporations (CCPCs)

Professional dues, 275-282

Profit computation

• capital expenditure. See Capital expenditure

- financial accounting practice, relevance of, 396-403
- generally accepted accounting principles (GAAP), 403
- • ordinary principles of commercial accounting, 396-403
- • statutory basis of profit, 396
- • tenant induced payments (TIPs), 396-403
- general timing rules
- • timing of recognition of expense, 418-421
- • timing of recognition of revenue, 407-418
- generally accepted accounting principles (GAAP), 403-405
- modification of general timing rules, 421-426
- • advance payments for unearned income or prepaid income, 422
- • allowances for capital cost, 426. See also Capital cost allowance (CCA)
- • inventory, 426. See also Inventory
- • modified accrual for professionals, 426-429
- • work in progress, 429
- • prepaid expenses, 422-423
- • reserves, 423-424
- "receivable", meaning of, 408-418
- tax accounting, 404-407
- • differences between tax and financial accounting, 404-405
- • methods of accounting, 406-407
- • accrual method, 406-407
- • cash method, 406
- • periods, 405
- tenant induced payments (TIPs), 396-397, 703
- timing principles, significance of, 395

Property income. See also Deductions from business/property

- business income, distinguished, 286, 301-303
- distinguished from other sources, 305-306
- dividends. See Dividends generally
- imputed income, 305-306
- interest. See Interest
- non-residents, 304
- ownership of property, 303-304
- payments based on production/use, 315-317
- payments for computer software, 317-318
- profit concept, 285
- property, defined, 303-304
- rental and royalty income, 315-318

Provincial abatement, 675

Provincial governments

• tax treaties, 159, 162, 164

^

Qualified farm property, 545

Qualified fishing property, 545

Qualified small business corporation shares, 544

R

Rates of tax, 28-30

Recapture, 476, 479, 482-286

Receivable, 408-418

Refundable dividend tax on hand (RDTOH), 494, 675-676

Registered retirement savings plan (RRSP), 709-710, 717-718, 722

Relocation expenses, 244-250, 577-578, 583

Remediation agreement, 372-373

Rental income

- payment based on production/use, 315-317
- payments for computer software, 317-318
- "rent" defined, 315

Replacement property rules

- capital cost allowance, 486
- capital gains, 537-538, 603

Research expense, 456

Reserves, 423-424, 706, 710-711

Residence

- corporations, 136-139
- individuals, of. See Residence of individuals
- trusts and estates, 139-140

Residence of individuals, 109-136

- case law, 109-118
- ceasing/commencing to be resident, 126-129
- • commercial pilot, 135
- deemed residence, 118-126
- ordinarily resident, 129-136
- part-time residence, 126-129
- persons abroad in official capacity, 125
- prescribed international development assistance program, 125-126
- question of fact, 109
- sojourners, 118
- teachers working abroad, 125

Retirement savings

- CPP/QPP, 614
- employer pension plans, 614
- OAS/GIS, 614

- private pensions/savings, 614
- purpose/policy, 613-615
- RRSPs, 614-615
- tax-assisted plans and policy goals, 615-617
- tax-free savings accounts (TFSAs), 614

Retiring allowances, 722

Returns, see Tax system

Rollovers

- capital gains, 537-538
- corporate. See Corporate rollovers
- inter vivos transfer, 664
- intra-family transfer, 547-551
- partnerships, 671-673
- section 85 rollover. See Section 85 rollover
- transfer to trust, 663-665

Royalty payments

- payment based on production/use, 315-317
- payment for computer software, 317-318
- "royalty" defined, 315

S

Section 51 rollover, 690

Section 85 rollover, 686-689

- anti-avoidance rule, 689
- elected amount, importance of, 686
- excluded properties, 687
- types of property, 687

Section 85.1 rollover, 689-670

Section 86 rollover, 690-691

Section 87 amalgamations, 691-693

Section 88 winding up, 693-695

Server farms or data centres, 303

Settlements, 736-737

Sham transaction doctrine, 772-774

Share-for-share exchanges, 689-690

Shareholder benefits, 685

Shareholder loans, 685

Small business deduction, 677-678

Sojourners, 118

Source concept of income

- income splitting, 100-105
- • generally, 100
- • indirect receipt, 103
- • trailer fees not included in income, 102, 103
- legislative framework, 73
- losses, 90-93
- • current year losses, 90-92
- • loss carryovers, 92-93
- • farm losses, 92, 93
- • net capital losses, 93
- • non-capital losses, 92
- nexus between taxpayer and source of income, 94-100
- • embezzled funds, 97-100
- • income calculation rules, 94
- • receipt of funds as requirement, 95-97
- non-residents, 546-547. See also Non-residents
- role of courts in defining sources of income, 74-90

Specified investment business (SIB), 286, 676, 677

Spousal rollover, 548, 550-551

Spousal trust, 548, 550-551

"Spouse" defined, 551, 751

Spouse, transfer/loan to, 548

Statutory interpretation. See also Interpretation of tax statutes

• principles, 69-71, 737-752

Structured settlements, 724-725

Substance over form doctrine, 774-775

Superficial loss, 543-544

Т

Tax accounting

- difference between tax and financial accounting, 404-405
- methods of accounting, 406-407
- • accrual method, 406-407
- • cash method, 406

Tax avoidance. See also Anti-avoidance provisions

- alternative minimum tax, 658-659
- artificial transactions, 766
- business purpose test, 676
- common types of, 757-758
- defined, 729, 752, 757-758
- general anti-avoidance rule (GAAR), 776-795

- income splitting/attribution rules. See Attribution rules, Income splitting
- ineffective transactions doctrine, 772-773
- judicial limits, 758-766
- overview, 757-758
- sham transaction doctrine, 773-774
- substance over form, 774-775
- tax treaties, 54, 160
- versus tax evasion, 752-757

Tax base

- citizenship/nationality, 107-108
- general, 107
- residence, 108. See also Residence
- source of income, 108

Tax credits. See Credits

Tax disputes. See Tax system

Tax evasion, 750-757

Tax expenditures and evaluations

- critique, 565-568
- definition, 42-44
- evaluation criteria, 44, 45
- in search of ideal income tax, 561-577

Tax-free savings account, 614-615, 710

Tax planning, 729, 776

Tax rates, 28-30

Tax system

- appeals, 734-736
- objections, 734-736
- refunds/interest/penalties, 732-733
- returns/assessments, 730-731
- electronic filing, 730
- settlements, 736-737
- voluntary disclosure program, 733
- waiver of interest and penalties, 733

Tax terminology, 30-34

Tax treaties. See Treaties, tax

Taxable benefits

- automobile benefit, 268-270
- "benefit of any kind whatever", 232-253
- • compensation for increased housing cost, 244-250
- • reimbursement for clothing, 238-240
- • reimbursement for housing loss, 244-250

- • trip paid by employer, 247
- gifts and gratuities, 217, 222-227
- "in respect of ... office or employment", 222-232
- introduction, 217-222
- policy concerns, 217
- valuation, 253-261
- • convertible into money, 253-254
- • frequent flyer credits, 254-255
- • shareholder benefit, 256-259

Taxable preferred shares, 698

Technical tax measures or policy

- criteria for evaluating, 34-42
- • equity: fair tax system, 36-40
- • neutrality, 40, 41
- • role of evaluative criteria, 34-36
- • simplicity, 41, 42
- making sense of tax laws, 71, 72

Tenant induced payments (TIPs), 396-403, 703

Terminal year, 705-706

Testamentary trust, 661, 709, 713

Theft, losses from, 371-372

Timing principles, 395, 407-444. See also Profit computation

Travelling expenses. See also Automobile expenses

- business, 345-353
- employment, 268-274

Treaties, tax, 52-61, 158-167

- aboriginal taxation, exemption from, 290-304
- double taxation relief, 158-159
- history/development, 161-167
- implementation, 163-164
- international trade promotion, 160-161
- interpretation, 164-167
- model convention, 161-163, 165
- network of tax treaties, 158
- non-discrimination, 163
- reason for, 158-161
- tax avoidance and evasion, 160
- Vienna Convention, 165
- withholding taxes, 162-163

Trusts

- attempts to avoid characterization as office or employment, 212-216
- "capital interest" defined, 665

- computation of income, 662-663
- deemed disposition, 663
- definitions, 661-662
- distribution of trust property, 665-666
- income of beneficiary, 663
- income payable to beneficiaries, 663
- overview of taxation, 662-663
- preferred beneficiary election, 662
- preferred beneficiary's share of accumulating income, 662
- residence, 662
- tax rates, 661-662
- taxation of, 666-673
- transfer of beneficial interests, 665-666
- transfer of property to, 663-665
- • inter vivos transfers, 663-664
- • qualifying dispositions, 664-665
- • testamentary transfers, 663-664

U

Undepreciated capital cost (UCC), 476

Union dues, 275-282

٧

Vested indefeasibly, 608-609

Vienna Convention on the Law of Treaties, 165-166

Voluntary Disclosure Program (VDP), 733

w

Winding-up, 682, 693-695

Withholding taxes

- non-residents, 157, 162-163
- tax treaties, 162-163