

INDEX

References are to page numbers.

A

- Active business**, 253, 256
- Affiliated persons**, 232
 - defined, 232–234
 - superficial loss, 235–237
 - stop-loss system, 240–241
 - suspended loss, 237–240
- Amalgamations**, *see also* Windings-up
 - introduction, 421–423
 - statutory, section 87, 425–437
 - • carry over of tax attributes of property, 434
 - • carry over of tax profiles of predecessor corporation, 434–435
 - • qualifying amalgamation, 425–433
 - • shareholder tax consequences, 435–437
- Anti-avoidance provisions**
 - dividend (surplus) stripping, general anti-avoidance rule, 345–348
 - partnerships, 69–71
 - trusts, 159–160
- Arm's length dealings**, 225–229
- Associated**, *see* Corporations
- At-risk rules, partnerships**, 67–69
- Attribution rules, partnerships**, 66–67

B

- Bifurcation**, 385
- Business limit**, 260–261

C

- Canadian-controlled private corporation (CCPC)**, 193–194, 202, 215–217, 249
 - aggregate investment income of, 315–316
- Capital gains stripping**
 - history of s. 55, 360–361
 - • incentive to, 357–360
 - • safe income, 375–384
 - • • allocation of, 383–384
 - • • consolidated approach, 382–383
 - • • determination time, 380–382
 - • election under para. 55(5)(f), bifurcation, 385
 - • income earned or realized, 375–377
 - • on hand, 377–380
 - introduction, 357
 - subsec. 55(2) conditions, 361–375
 - subsec. 55(2.2)-(2.4), 384–385
- Contributions to/distributions from partnership**
 - adjusted cost base of partnership interest, 98–104

Index

- Contributions to/distributions from partnership (*cont'd*)
 - adjustments in computation of, 101–104
 - deemed gain, 99–101
 - boot, cost of, 95–96
 - elected amount (subsec. 85(1)), 86–98
 - elections, rollovers, 121
 - loss limitation rules, 92–93
 - partner withdrawal/dissolution, 104–109
 - income tax implications, 104–106
 - subsec. 98(1) disposition of property, 106–109
 - time of dissolution, 104
 - subsec. 97(2) transfers to partnership, 86–98
 - tax-deferred partnership dissolutions, 109–120
 - conversion to co-ownership or proprietorship, 110–117
 - incorporation of partnership, 117–120
 - replacement of partnership, 120
- Contributions to/distributions from trust**
 - benefits trust, employment-related, 166–167
 - capital interests, 177–188
 - cost of, 178–179
 - definition, 177
 - disposition of, 177–178
 - distributions in satisfaction of, 183–188
 - generally, subsec. 107(1), 180–183
 - personal or prescribed trust, 179–180
 - contributions default scheme, 167–169
 - disposition of interests, 173
 - exceptions to default scheme, 170–173
 - qualifying disposition, 172–173
 - qualifying transfer, 170–172
 - income interests, 173–177
 - cost of, 174–175
 - definition, 173–174
 - disposition of, 175–177
 - introduction, 163
 - personal trust, definition, 163–165
 - unit trust, definition, 165–166
- Control**, *see under* Corporations
- Conversions/exchanges**, *see* Tax deferred transfers/exchanges/conversions
- Corporate distributions and appropriations**, *see also* Shareholder benefits,
 - Shareholder debt, 300–302
 - capital dividend account, 282–288
 - deemed dividends, 288–296
 - dispositions on purchase, redemption or cancellations of shares, 292–293
 - distributions, overview, 267–288
 - dividends in kind, 275
 - dividend tax credit, 270, 274, 310–315
 - eligible dividend, defined, 267
 - eligible dividend regime, 268
 - gross-up system, 268–270, 310–315
 - integration, 273–275
 - other acquisition of shares, 289–291
 - paid-up capital, 278–281

Index

- Corporate distributions and appropriations (*cont'd*)
 - increases, 293–294
 - limitation of, 348–353
 - reductions, 288–289
 - Part IV tax, 319–322
 - purchase of shares, 289–291
 - redemption of shares, 289–291
 - section 84 provisions, 295–296
 - stock dividends, 275–278
 - taxable dividend, defined, 267
 - winding-up distributions, 291–292

Corporations, *see also*

- Amalgamations, Capital gains stripping, Corporate distributions and appropriations, Shareholder benefits, Shareholder debt, Tax deferred
- transfers/exchanges/conversions, Windings-up
- affiliated persons, *see* Affiliated persons
- arm's length dealings, 225–229
- associated, 242–249
- deeming rules, 243–249
- specified class, 243
- classification of income, 194–196
- control concepts, 199–214
- deemed, 213–214
- *de facto*, 206–212
- *de jure*, 200–206
- definitions, generally, 193–194
- integration, 273–275, *see also* Integration of taxes
- rates of tax, 217–219
- additional refundable tax, 218
- basic federal rate, 217
- general rate reduction, 218

- provincial abatement, 217–218
- small business deduction, 218–219, *see also* Small business deduction
- refundable tax, *see* Refundable tax
- related persons, *see* Related persons
- residence, 196–199
- common law, 196–198
- deemed, 198–199
- small business deduction, *see* Small business deduction
- types of, 214–217
- Canadian, 215
- Canadian-controlled private (CCPC), 215–217
- private, 214
- public, 214–215

D

Definitions

- “active business carried on by a corporation”, 253–256
- “aggregate investment income”, 315–316
- “amount”, 275–276, 281
- “benefits trust”, 166–167
- “Canadian-controlled private corporation”, 193–194, 202, 215–216
- “capital dividend account”, 282–288
- “capital interest”, 173, 177
- corporation, 48
- “cost amount”, 114–115, 158, 178–179, 392–393
- “disposition”, 167
- “eligible property”, 396–398
- “individual”, 47
- “income”, 251, 315

Index

Definitions (*cont'd*)

- “income interest”, 173–174
- “inventory”, 394
- “loss”, 251, 315
- “paid-up capital”, 278–281
- “person”, 47
- “personal services business”, 256–257
- “personal trust”, 134, 163–165
- “private corporation”, 214
- “public corporation”, 214–215
- “refundable dividend tax on hand”, 316–319
- “safe-income determination time”, 363, 380–381
- “specified corporate income”, 258–259
- “specified investment business”, 253–255
- “specified partnership income”, 258
- “specified shareholder”, 256
- “stock dividend”, 275–276
- “superficial loss”, 235–237
- “taxpayer”, 47, 138–139
- “trust”, 131, 133–134, 138–139, 166
- “unit trust”, 165
- windings-up, 437–438

Dissolution of partnership, *see under* Contribution to/distributions from partnership

Dividend (surplus) stripping

- general anti-avoidance rule, 345–348
- introduction, 329–331
- post-1972 tax reform, 334–345

- pre-1972 tax reform, 319–334

Dividends, *see* Corporate distributions and appropriations, Dividend (surplus) stripping

E

Elections, *see under* Contributions to/distributions from partnership

Exchanges, *see* Tax deferred transfers/exchanges/conversions

G

General anti-avoidance rule (GAAR)

- dividend (surplus) stripping, 345–348

I

Income Tax Act

- “backing into”, 8–13
- interpretation of, 3, 19–28
- reading of, 4–19
- secondary sources for understanding, 13
- specific provisions, 5–8
- statutory construction, 21–28
 - • modern approach, 24–28
 - • strict construction, 22–24
- structure of, 4–8

Integration of taxes

- corporation and shareholder, 273–275
- introduction, 307–309
- gross-up and dividend tax credit, 310–315
- refundable tax, 315–324

Index

L

Loss limitation rules

- partnerships, 92–93

P

Paid-up capital, *see* Corporate distributions and appropriations

Partnership, *see also* Contributions to/distributions from partnership, Partnership income/loss, Retired partner

- adjusted cost base of partnership interest, *see* Contributions to/distributions from partnership
- deductions, 55–56
- defined, 29–37
 - “a business”, 40–41
 - “between persons”, 37–40
 - foreign law, 44
 - “person” for income computation, 45–48, 49–53, 54–55
 - tiered partnership structures, 37–39
 - trusts, 39–40
 - “with a view to profit”, 41–44
- dissolution, *see* Contributions to/distributions from partnership
- flow through to partner, 56–58
- income/loss, *see* Partnership income/loss
- interest, nature of, 77–82
- partner withdrawal/dissolution, *see* Contributions to/distributions from partnership
- taxation year, 53–54
- transfers of property, *see* Contributions to/distributions from partnership

Partnership income/loss

- anti-avoidance provision, 69–71
- at-risk rules, 67–69
- attribution rules, 66–67
- loss limitation rules, 92–93
- preferential allocations of, 58–60

“Person”, defined, 47

Personal services business, 256–257

R

Refundable tax, 315–324

- aggregate investment income of CCPC, 315–316
- dividend refund, 322–324
- Part IV tax, 319–322
- refundable dividend tax on hand (RDTOH), 316–319

Related persons, 229–232

Retired partner

- allocation of partnership income to, 61–65
- effect of withdrawal in law, 61
- payments to/from partnership, 65–66

S

Section 85 transfers

- conditions of rollover, 395–396
- elected amount, 398–406
- elections, federal and provincial provisions, 407
- elections, late-filed and amended, 406
- property eligible for, 396–398

Share for share exchange, *see* Tax deferred transfers/exchanges/conversions

Index

Shareholder benefits, 296–299

- shareholder benefit income inclusion rule, 297–298

Shareholder debt, 300–302

Small business deduction

- active business carried on by corporation, 253
- business limit, 260–261
- exempt taxable income, 259–260
- introduction, 249–250
- income for the year from an active business, 250–253
- personal services business, 256–257
- specified corporate income, 258–259
- specified investment business, 253–255
- specified partnership income, 257–258

Specified corporate income, 258–259

Specified investment business, 253–255

Specified partnership income, 257–258

T

Tax deferred transfers/exchanges/conversions

- conversions/exchanges, 409–416
 - under sections 51 and 51.1, 409–412
 - under section 86, 413–416
- “cost amount”, 392
- eligible capital property, 395
- depreciable property, 394–395
- inadequate considerations, 389
- introduction, 389

- non-depreciable capital property or inventory, 394
- price adjustment clauses, 389–392
- section 85 transfers, *see* Section 85 transfers
- share for share exchange under s. 85.1, 407–409
 - conditions for rollover, 407–408
 - exclusions from rollover, 408–409
- tax value vs. book value, 392–393

“Taxpayer”, defined, 47

Tax rates, *see* Corporations

Transfers of property, *see* Tax deferred transfers/exchanges/conversions

Trust, *see also* Contributions to/distributions from trust, Trust income capital interests, *see* Contributions to/distributions from trust

- defined, 131–136
 - bare trust, 132–133
 - benefits trust, 134, 166–167
 - civil law trust, 135
 - constructive trust, 136
 - *inter vivos* trust, 166
 - is a “taxpayer”, 138–141
 - personal trust, 134, 163–165, 179–180
 - prescribed trusts, 179
 - testamentary trust, 136–138, 166
 - unit or mutual fund trust, 134, 165–166
- disposition of interests, *see* Contributions to/distributions from trust
- income, 130–131

Index

Trust (*cont'd*)

- income interests, *see* Contributions to/distributions from trust
- nature of, generally, 129
- non-resident, 129
- SIFT rules, 130
- taxation of, generally, 129–131
- taxation of beneficiary, *see* Trust income
- taxation of trust, *see* Trust income
- types of trusts, 163–167
 - alter-ego, 157
 - bare, 132–133
 - benefits, 166–167
 - civil law, 135
 - constructive, 136
 - *inter vivos*, 166
 - joint partner, 157
 - personal, 163–165
 - testamentary trust, 136, 138, 166
 - unit or mutual fund, 165–166

Trust income

- 21-year deemed disposition rule, 155–159
- alter-ego trust, 157
- anti-avoidance provision, 159–160
- benefits under a trust, 154–155
- deemed disposition rule, 21-year, 154–159
- deemed not paid, subsec. 104(13.1), (13.2), 148–150
- dividends from taxable Canadian corporations, 151

- joint partner trust, 157
- non-taxable dividends, 153–154
- post-1971 partner trust, 156–157
- pre-1972 spousal trust, 156
- self-benefit trust, 157–159
- source and character of, 150–155
- taxable capital gains, 152–153
- taxation of beneficiary, 141–145
 - beneficiary entitled in year to income payment, 143–145
 - paid in trust's taxation year to beneficiary, 142–143
- taxation of trust, 146–148

W

Windings-up

- definition, 437–438
- distributions, 291–292
- introduction, 423–425
- taxable windings-up, subsecs. 84(2) and 88(2), 448–449
- tax deferred, subsec. 88(1), 438–448
 - bump entitlement, 439–447
 - losses, 447
 - minority shareholders, 447–448
 - parent level, 438–439

