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Capital Gains and Losses

Québec

Abbreviations used in this guide

ACB: Adjusted cost base
CCA: Capital cost allowance
CCPC: Canadian-controlled private corporation
CNIL: Cumulative net investment loss
CRA: Canada Revenue Agency
FMV: Fair market value
UCC: Undepreciated capital cost

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Principal changes

Exemption of capital gains realized on donations of listed securities to private foundations

Capital gains realized on the donation of listed securities to a private foundation **after March 18, 2007**, are exempt from income tax.

However, if you obtained an advantage in gratitude for, or as partial consideration for, the donation, **the portion of the capital gain attributable to the value of the advantage is not exempt from income tax**.

If the private foundation has excess corporate holdings on **March 18, 2007**, and does not divest them entirely by the end of the first taxation year beginning after March 18, 2012, a subsequent donation of listed securities to the foundation (that is, a donation made after the end of that taxation year) will not entitle the donor to a tax exemption on the capital gains resulting from the donation.

Capital gains deduction limit increased to $375,000

The deduction limit for capital gains realized on the disposition of qualified property (qualified farm property, qualified fishing property, qualified small business corporation shares, or incorporeal capital property classed as qualified farm property or qualified fishing property) **after March 18, 2007**, has been increased to a cumulative maximum of $375,000.

If, in your federal income tax return, you claim an amount that is less than the maximum capital gains deduction to which you are entitled, you must claim **the same amount** in your Québec income tax return, **provided the amount is lower than the maximum amount to which you are entitled for Québec income tax purposes**. This restriction came into force on **December 20, 2006**.

1 General information

This guide is intended for **individuals** (including trustees acting on behalf of trusts) who disposed of capital property or incorporeal capital property during a taxation year, or who are members of a partnership that disposed of such property during a fiscal period. This version of the guide is valid **for 2007**, and will continue to apply until fiscal or administrative changes make an update necessary.

In order to simplify the guide, we use the following terms where possible:
- **to sell** rather than *to dispose of*, **sale** rather than *disposition,* and **sale price** rather than *proceeds of disposition*;
- **to purchase** rather than *to acquire*, **purchase** rather than *acquisition,* and **purchase price** rather than *acquisition cost*;
- **property** rather than *capital property* or *incorporeal capital property*.

Capital property

Depreciable property, or non-depreciable property whose sale results in a capital gain (or loss).

Capital property may be depreciable property of a prescribed class that is used to earn income (for example, buildings, furniture, equipment or machinery), or non-depreciable property that is used to earn income or for other purposes (for example, shares, bonds, debts or immovables). In this guide, we frequently use the term "property" to designate capital property.

Incorporeal capital property

Incorporeal property used in carrying on a business, three-quarters of the cost of which may give rise to a 7% deduction in the calculation of income earned from the business.

Generally, in this guide, the term "sale" is used instead of "disposition" to designate a transaction in which a person assigns property to another **for a consideration or no consideration** (such as a gift, in the latter case). The term "transfer" is sometimes used to designate such a transaction where the parties to the transaction are not dealing at arm's length (see section 6.1).

The term "sale" also includes a **deemed** sale. For example, a deemed sale is said to occur where
- a debt is determined to be uncollectible (see section 4.3.2.1);
- there is a change in the use of property (see section 6.5);
- property is expropriated, damaged, stolen, destroyed, etc.;
- a person emigrates from Canada (see section 6.6);
- a person owned property immediately before his or her death (see the *Guide to Filing the Income Tax Return of a Deceased Person* [IN-117-V]).

A sale of property may result in a **capital gain (or a capital loss)**, only a portion of which is taxable (or deductible), or in **business income (or a business loss)**, which is fully taxable (or deductible).

In order for a sale of property to result in business income (or a business loss), the sale must be a **commercial transaction**. Such is the case, for example, if you regularly buy and sell buildings for profit. However, if you sell a building that you acquired and used for personal purposes or in order to earn rental income, you are deemed to have made a **capital transaction**, which may result in a capital gain or a capital loss.

This guide describes various capital transactions for which you report a capital gain (or loss) and provides instructions on carrying this gain (or loss) to the appropriate line of the personal income tax return or Schedule G of the return.

2 Capital gain or loss

This chapter explains how to calculate the capital gain (or capital loss) that you, as **transferor**, realize when you **sell property**, and will help you determine the year in which you are required to report the gain or loss.

You are not required to report a capital gain on personal-use property unless the sale price is over $1,000. You cannot deduct a capital loss on such property unless it is considered precious property (see section 4.4).

Note

Precious property comprises the following personal-use property: prints, etchings, drawings, paintings, sculptures and other similar works of art, as well as jewellery, stamps and coins, and rare folios, books and manuscripts.

You are not required to report a capital gain realized on the sale of cultural property to a prescribed institution or authority, a certified archival centre or a Québec museum (see section 4.6).

2.1 Calculating a capital gain or loss

To calculate a capital gain or loss, use the formula A – B – C, where

A is the sale price (proceeds of disposition) of the property;

B is the adjusted cost base (ACB) of the property; and

C is the amount of the expenses incurred to sell the property.

Sale price

- The actual sale price;
- the deemed sale price: generally, the fair market value (FMV) of the property at the time of the deemed sale (for example, immediately before the owner's death or emigration from Canada), or at the time of the transfer (for example, when an inter vivos gift is made or when the property is transferred to a person with whom the transferor is not dealing at arm's length, for a consideration that is less than the FMV); or
- the compensation received for property that was expropriated, destroyed, damaged or stolen.

Note

The deemed sale price may sometimes equal zero (as in the case of a debt that became uncollectible during the year or a share of the capital stock of a corporation that went bankrupt or became insolvent during the year).

Fair market value (FMV)

The highest price that could be obtained on an open market for a property, where the buyer and seller consent to the transaction, are well-informed and are dealing at arm's length.

Adjusted cost base (ACB)

Generally, the purchase price (acquisition cost) of a property, plus the expenses incurred to purchase it (such as legal fees, surveying and assessment costs, brokerage fees, delivery and installation costs, and any GST or QST payable) and the cost of any additions (that is, capital expenditures for additions or improvements made to the property).

Note

For depreciable property, the ACB is the capital cost of the property. For other property, the ACB may have to be adjusted.

2.1.1 Property received as a gift or an inheritance, or through a transfer

The deemed purchase price of a property, for the purpose of calculating the capital gain or loss realized on the sale of the property, may differ from the actual purchase price. This is the case, for example, where you received the property for **no consideration** (as a gift or an inheritance) or the property was transferred to you by a person with whom you were not dealing at arm's length, **for a consideration higher than its FMV** at the time of the transfer.

In these cases, the deemed purchase price is equal to the FMV at the time of the gift or transfer or immediately before the death (as applicable). However, this rule does not apply in the following cases:

- You received the property from your spouse (or former spouse, in settlement of a right resulting from the marriage), and you and your spouse or former spouse were resident in Canada at the time of the gift or transfer. In such a case, your spouse or former spouse is deemed to have transferred the property to you for proceeds equal to the ACB of the property immediately prior to the transfer (rollover rule), except where your spouse or former spouse makes an election whereby the FMV of the property is considered to be his or her sale price and your purchase price.
- You received the property further to the death of your spouse and you and your spouse were resident in Canada immediately before the time of death, except where the deceased's legal representative makes an election whereby the FMV of the property is considered to be the deceased's sale price and your purchase price.

At arm's length

Related persons, such as the following, are deemed not to deal with each other at arm's length:

- individuals connected by blood, marriage or adoption (such as parents and their children, grandparents and their grandchildren, brothers and sisters);
- an individual and
  - a trust in respect of which the individual has the right, as beneficiary, to receive all or a portion of the trust's income or capital;
  - a corporation of which the individual acquired control.

2.1.2 Property for which an election was made on February 22, 1994

The deemed purchase price of a property may also differ from its actual purchase price if you filed form TP-726.18-V, *Election to Report a Capital Gain Deemed to Have Been Realized*. In this case, you are deemed to have sold the property on February 22, 1994, for an amount equal to the designated sale price, and **to have repurchased it immediately thereafter (on February 23, 1994) for the same amount**.

The exceptions to this rule are as follows:

- If the property is **non-qualifying immovable property** (such as a cottage or rental property), its purchase price on February 23, 1994, is equal to the designated sale price **minus** the reduction for non-qualifying immovable property (the reduction is calculated when the election is made).

  However, if you or your spouse designated the non-qualifying immovable property as your principal residence at the time of the election or at the time it was sold, the property is not deemed to have been sold on February 22, 1994, nor to have been repurchased immediately thereafter; consequently, the ACB of the property must not be adjusted. The reduction for non-qualifying immovable property must be calculated (using form TP-274.S-V, *Reduction of the Capital Gain Deemed to Have Been Realized on a Principal Residence*) only after the sale of the property, and is intended to reduce the capital gain realized at that time.
- If the property is a security held in a flow-through entity, the purchase price on February 23, 1994, is equal to the ACB (calculated in the usual way), and is not affected by the election. However, in such cases an "exempt capital gains balance" is created. Through 2004, you could use this balance to reduce not only the capital gains allocated to you by the flow-through entity, but also the capital gain you realized on the sale of a portion of the property. After 2004, any unused amount can be used to increase the ACB of the property or, if a portion of the property has already been sold, to increase the ACB of the residual portion of the property.

In addition, if the sale price designated on form TP-726.18-V exceeds the FMV of the property on February 22, 1994, the purchase price determined previously may be reduced. In the case of a principal residence, the reduction applies at the time of the sale or deemed sale of the residence. The reduction is calculated on form TP-274.S-V, and is taken into account in the calculation of the capital gain realized or deemed to have been realized.

2.1.3 Property used in part to earn income

If you have always used part of a property to earn income, the cost of the property and its sale price must be determined according to the percentage of use for the purposes of earning income.

Example

You purchased equipment for $20,000 in 2005 and sold it for $12,000 in 2007. While you owned the property, you used it on a regular basis, in a proportion of 40%, to earn business income.

For the **portion of the property used to earn business income**, your sale price for 2007 is $4,800 (40% of $12,000). You have a capital cost of $8,000 (40% of $20,000), on which you were entitled to claim capital cost allowance (CCA) annually. Because this portion of the property is depreciable, you cannot claim a capital loss, but you may be able to claim a terminal loss (see section 4.2.2).

For the **portion of the property used for other purposes**, your sale price is $7,200 (60% of $12,000) and your capital cost is $12,000 (60% of $20,000). You cannot claim a capital loss on this portion of the property, since it is used for personal purposes (see section 4.4.2).

2.1.4 Sale of part of a property

If only part of a property is sold, the ACB of this portion is equal to the ACB of the entire property, **multiplied** by the fraction of the property that is sold. For example, if 1/5 of a property is sold, the ACB of the portion sold is equal to the total ACB multiplied by 1/5.

2.1.5 Securities purchased under a stock option granted to employees

If you sold shares that you purchased under an agreement that constitutes a stock option granted by your employer (or by the employer of a person who transferred the stock option rights to you in a non-arm's-length transaction), or by a corporation that was not dealing at arm's length with such an employer, **you must calculate your capital gain (or loss) as if the ACB of the shares were equal to the total of the following amounts**:

- the cost of the shares (any amount paid or payable to purchase the shares as well as any amount paid to purchase the option); and
- the taxable benefit resulting from the granting of the option.

In the case of mutual fund units, the value of the taxable benefit must be added to the actual cost of the units, provided the option was granted after February 1998 by your employer (or the employer of a person with whom you were not dealing at arm's length), or by a mutual fund trust with which such an employer was not dealing at arm's length.

As a rule, the value of the benefit referred to above is indicated as a "security option" on the **employee's** RL-1 slip and **must be included in the employee's income**, as applicable,

- **for the year in which the option is exercised**, even if it is exercised by a person to whom the employee transferred the option rights in a non-arm's-length transaction; or
- **for the year in which the employee sells or exchanges securities** purchased under the option (see the note opposite)
  - if the option agreement was concluded with an employer that is a Canadian-controlled private corporation (CCPC), or with a CCPC related to the employer CCPC, and the employee was dealing at arm's length with the corporation (or corporations) immediately after the option was granted; or
  - if, in the case of an option to purchase shares of a corporation other than a CCPC or mutual fund units, the employee has filed a valid election with the Canada Revenue Agency (CRA) to defer taxation of the benefit.

Note

Where the employee dies before the option is exercised, the benefit is indicated on his or her RL-1 slip for the year of death and must be included in the employee's income for that year. If the option rights were transferred before the employee's death to a person not dealing at arm's length with the employee, that person must, as a rule, report the benefit for the year he or she exercises the option.

An employee required to report a benefit respecting an option may also claim a deduction in this regard if a note to this effect appears in the centre of the RL-1 slip.

An additional deduction may be claimed if the securities in question are listed shares or mutual fund units, and they were **donated to a qualified donee within 30 days after their acquisition, in the same year they were purchased** under the option. However, this deduction does not apply if the donee is a private foundation, unless the listed shares were donated to such a foundation after March 18, 2007. For further information, contact us.

Note

This section does not deal with a qualifying exchange of securities, since in that case the employee is deemed not to have sold securities or purchased new securities, and the newly acquired securities are deemed to be the same as, and a continuation of, the securities being sold, provided

- the securities (new and old) were issued by the same issuer (or the two issuers were not dealing at arm's length immediately following the exchange);
- the employee received only the new securities in exchange for the old securities; and
- the value of the new securities does not exceed the value of the old securities.

2.1.6 Identical properties

If the property sold belongs to a group of identical properties that were purchased at different prices, its ACB is equal to the average ACB of the properties.

Example 1

In 2007, you sold 80 shares that belonged to a group of identical properties (240 common shares of a particular corporation). The chart below shows your transactions with respect to the identical properties.

	Number of shares	Cost per share	Total ACB
Purchase in 2005	100	$15	$1,500
Purchase in 2005	50	$24	$1,200
	150		$2,700
Average ACB: $2,700 ÷ 150 = **$18**			
Sale in 2006	(80)	$18	($1,440)
	70		$1,260
Purchase in 2006	170	$30	$5,100
	240		$6,360
Average ACB: $6,360 ÷ 240 = **$26.50**			
Sale in 2007	(80)	$26.50	($2,120)
	160		$4,240

With each new purchase of shares, you must recalculate the average ACB. When a sale takes place, you must use the average ACB to calculate your capital gain or loss. In this example, the 80 shares sold in 2007 have an ACB of $26.50 each, for a total ACB of $2,120.

Example 2

In 2007, you sold 1,000 mutual fund units belonging to the same class. These units are considered identical properties. You must calculate their ACB as shown below.

	Number of units	Cost per unit	Total ACB
Purchase in 2005	1,200	$6.55	$7,860
Reinvested distributions (income and capital gains in 2005, paid in the form of additional units)	90	$7.22	$650
Balance of the fund on December 31, 2005	1,290		$8,510
Average ACB: $8,510 ÷ 1,290 = **$6.60**			
Purchase in 2006	500	$7.40	$3,700
Reinvested distributions (income in 2006, paid in the form of additional units)	120	$7.46	$895
Balance of the fund on December 31, 2006	1,910		$13,105
Average ACB: $13,105 ÷ 1,910 = **$6.86**			
Sale in 2007	(1,000)	$6.86	($6,860)
	910		$6,245

The ACB of the 1,000 units sold in 2007 is therefore $6,860. You may be required to adjust the ACB of the units on December 31, 2007. Such an adjustment (an increase or reduction) is shown in box M of the RL-16 slip that you receive for this mutual fund.

Note

In the following circumstances, where you sell one of your identical securities, the security is deemed not to be identical to the other securities, and the average ACB rule does not apply to the calculation of the capital gain (or loss) resulting from the sale:

- You purchased a security after February 27, 2000, under an option agreement entered into as part of your employment and, as applicable,
  - the reporting of the value of the benefit resulting from the option is deferred to the year in which the security is sold or exchanged;
  - within 30 days after the purchase, you sold an identical security and you designate it in your income tax return as being the same as the security purchased. Moreover, you must not make a similar designation with respect to the same security for another sale nor must you purchase or sell another identical security between this purchase and this sale. Under a measure that came into effect on December 20, 2006, if you wish to make such a designation, you must first submit it to the CRA. A designation submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this designation.
- The security is a share that you, as the beneficiary of a deferred profit-sharing plan (DPSP), received as part of a single payment on your withdrawal from the plan or retirement from employment, or on the death of an employee or former employee. In addition, a valid election was made with the CRA under subsection 147(10.1) of the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Supp.)). You must provide Revenu Québec with a copy of the form you submitted to the CRA (form T2078, *Election Under Subsection 147(10.1) in Respect of a Single Payment Received From a Deferred Profit Sharing Plan)*.

2.1.7 Shares received further to a demutualization

If, further to the demutualization of an insurance corporation, you received a benefit consisting in shares of the capital stock of the insurance corporation or of a holding company, you are not required to include the amount of the benefit in your income for the year in which you received the benefit. However, the ACB of the shares is deemed equal to zero, and you will therefore have a capital gain when you sell them.

2.2 Reporting a capital gain or loss

A sale of property **must be reported in the taxation year in which the transaction occurs** (the taxation year usually corresponds to the calendar year). This rule applies to all property sold, whether personal-use property, property used to generate property income, or property used in carrying on a business (regardless of the end-date of the business's fiscal period).

However, if you are a member of a partnership that sold property in a given fiscal period, the transaction **must be reported in the taxation year in which the fiscal period ended**. For example, if the partnership's fiscal period began on July 1, 2006, and ended on June 30, 2007, you must report your share of the capital gains (or capital losses) in your 2007 income tax return even if the sale occurred during the period from July 1, 2006, to December 31, 2006.

To report your capital gains (or capital losses) for the year, complete Schedule G of the income tax return.

2.3 Failure to report a capital gain or to file an income tax return

The taxable capital gain for a given year is made up of the taxable portion of the following amounts:

- the net amount of the capital gains and capital losses resulting from sales of property during the year;
- the reserve deducted for the previous year (see Chapter 5).

A taxable capital gain related to certain types of property may entitle you to a capital gains deduction (see Chapter 7). However, you will no longer be entitled to the capital gains deduction in respect of that gain, either for the year in which the capital gain was realized or for a subsequent year, if you knowingly, or under circumstances constituting gross negligence,

- fail to report the capital gain in your income tax return for the year in which you realize the gain; or
- fail to file your income tax return for that year within one year after the filing deadline (in the case of the 2007 income tax return, by April 30, 2009, or June 15, 2009, as applicable).

3 Overview of capital gains taxation

This chapter gives only an overview of the tax treatment of **capital gains**; more detailed information is contained in other chapters, as indicated.

For information about **capital losses**, see Chapter 8.

3.1 Reserves for amount payable on the sale price

If you realized a capital gain on a property in a taxation year, and part of the sale price is payable in a subsequent year or over a number of subsequent years, you may deduct a reserve with respect to the capital gain. The following year, you must report this reserve as a capital gain and, if part of the sale price remains payable, you may deduct a new reserve (see Chapter 5).

3.2 Sale of property followed by the purchase of replacement property

You may elect to defer reporting a capital gain realized on a deemed sale of property (resulting from expropriation, theft, damage, etc.) or on the sale of property used to carry on your business, provided you purchase replacement property within the prescribed time limit (see section 6.2).

3.3 Deferral of the capital gain realized on a sale of eligible small business corporation shares

You may defer reporting a capital gain realized on the sale of eligible small business corporation shares if you purchased other eligible shares and you meet certain conditions (for example, with regard to the issuing corporation, the time limit for purchasing the new shares, and the length of time the new shares are held). For further information, see section 6.3.

3.4 Tax-exempt capital gains: Donation of certain property

As a rule, you need not report capital gains realized on

- gifts of certain securities (in particular, listed shares and mutual fund units) to a charity or any other qualified donee that is not a private foundation (this exception does not concern the donation of listed shares to such a foundation after March 18, 2007);
- ecological gifts (gifts of land with undeniable ecological value or a real servitude encumbering such land) to a charity or any other qualified donee that is not a private foundation. In this case, a certificate from the Ministère du Développement durable, de l'Environnement et des Parcs, confirming the FMV of the gift, must be enclosed with your income tax return;
- the donation of a musical instrument to a recognized educational institution.

However, if you obtained an advantage in gratitude for, or as partial consideration for, such a donation, you are deemed not to have donated the portion of the property attributable to the value of the advantage. Therefore, if you realized a capital gain on the donation, you must report the portion of the gain that is proportional to the value of this advantage. To calculate the amount of the capital gain to be reported on Schedule G, use form TP-231-V, *Capital Gain Resulting from the Donation of Certain Property.*

For further information, see section 6.4.

3.5 Capital gains deductions

The capital gains realized on certain **qualified property** give entitlement to a deduction. You may claim a deduction with regard to

- capital gains realized on the sale of qualified farm property, qualified fishing property and qualified small business corporation shares;
- business income related to the sale of incorporeal capital property that is qualified farm property or qualified fishing property (this income is deemed to be a capital gain for the purposes of the deduction).

Another deduction may be claimed with regard to capital gains realized on **resource property**.

For further information, see Chapter 7.

4 Tax treatment of various types of property

This chapter describes the tax treatment applicable to sales or deemed sales of different types of property. It provides information on

- reporting capital gains and losses;
- how to obtain tax benefits through certain elections you may make under the *Taxation Act*;
- a measure that came into effect on December 20, 2006, under which certain elections made for federal income tax purposes (CRA) are considered to have been made for Québec income tax purposes (Revenu Québec).

This chapter also indicates which lines of Schedule G of the income tax return you must use to report your capital gains or losses.

Before reading this chapter, we suggest you refer to Chapter 6 to find out whether any of the following special cases described in that chapter apply to you:

- the transfer of property to a person with whom you are not dealing at arm's length;
- the sale of property followed by the purchase of replacement property, in the course of carrying on a business or further to a deemed sale of property (resulting from expropriation, damage, theft, etc.);
- the sale of eligible small business corporation shares coupled with the purchase of replacement shares;
- the donation of property to a qualified donee;
- the deemed sale of property further to a change in the use of the property or further to your departure from Canada;
- the sale of property by a partnership of which you are a member.

The information in Chapter 6 will help you determine whether you are required to report a capital gain (or loss) for the year in question, and whether you may make certain elections.

4.1 Immovable property

Immovable property (also referred to as "immovables," "real property" or "real estate") comprises land and buildings. When reporting capital gains or losses on the sale of immovable property, you must take into account whether the property gives entitlement to a capital gains deduction. On line 14 of Schedule G, enter the net capital gain (or net capital loss) on immovable property that does not qualify for a deduction (immovable property that is not qualified farm property or qualified fishing property). On line 52 of Schedule G, enter the net capital gain (or net capital loss) on immovable property that qualifies for the capital gains deduction on qualified property (immovable property that is qualified farm property or qualified fishing property).

However, capital gains on immovable property that is also personal-use property are subject to special rules, and must therefore be reported on line 16 of Schedule G. For further information, see section 4.4.

If the immovable property is also depreciable property (property of a prescribed class that was used to earn business or property income), read section 4.2 below.

4.2 Depreciable property

The capital cost of a property (unlike a current expenditure) cannot be deducted for the taxation year in which you purchase a property. On the other hand, if the property belongs to a class prescribed by the *Regulation respecting the Taxation Act*, you may deduct its cost over time by claiming capital cost allowance (CCA). Depreciable property is divided into different classes, each with its own CCA rate, calculation method and maximum depreciable amount. Depending on the rate applicable to the property concerned, CCA may be claimed for a single year or over a number of years.

The elements that make up the cost of a depreciable property constitute its capital cost (see the definition of "adjusted cost base" in Chapter 2). However, if you use only a portion of the property to carry on a business or to earn rental income, the cost of the property, prorated on the basis of the portion so used, constitutes its capital cost. As a rule, the amount that may be claimed as CCA for a given class of property equals

- the capital cost of all the property in the class (if the calculation is being done for the first time) or the undepreciated capital cost of all the property in the class (for subsequent calculations), multiplied by
- the CCA rate for the class.

Undepreciated capital cost (UCC)

Generally, and with respect to property of a given class, the undepreciated capital cost (UCC) is equal to the capital cost of all the property in the class, **minus** the total amount claimed as CCA during previous years.

Note

If you sell a property in the class, you must subtract from the above result the lower of the following amounts:

- the sale price of the property, minus the expenses incurred for the sale;
- the capital cost of the property.

4.2.1 Capital gains

If you are required to report a capital gain on depreciable property, enter the amount of the gain on line 14 of Schedule G or, in the case of qualified farm property or qualified fishing property, on line 52 or 53. If, further to the sale of this property and all other property in the same class, the UCC of the property in the class is a negative amount at the end of the year, this amount constitutes a **recapture of capital cost allowance**. You must report a recapture of CCA as business or rental income (as applicable).

4.2.2 Losses

A loss on the sale of depreciable property does not entitle you to a deduction for capital losses. However, **if the property sold was the last property remaining in a particular class**, and the UCC of the property in the class is a positive amount at the end of the year, this amount constitutes a **terminal loss**. You may deduct a terminal loss from business or rental income.

4.3 Securities and other property

Canadian security

A security (other than a prescribed security): a share of the capital stock of a corporation resident in Canada, a mutual fund unit, or a bond, bill, note, hypothecary claim, mortgage or similar obligation issued by a person resident in Canada.

Prescribed security

Includes, for example,

- a share of the capital stock of a corporation (other than a public corporation) whose value, at the time you sell it, is primarily attributable to immovable (real) property, Canadian or foreign resource property, or a combination of immovable and resource property;
- a bond, bill, note, hypothecary claim, mortgage or similar obligation issued by a corporation (other than a public corporation) with which, at any time before you sell the security, you are not dealing at arm's length;
- a share, bond, bill, note, hypothecary claim, mortgage or similar obligation that you purchased from a person with whom you are not dealing at arm's length.

The distinction between **Canadian securities** and **other securities** is an important one, as you may elect to consider any income or loss from the sale of Canadian securities you owned, own, or will own, to be a capital gain or loss. To make such an election, you must complete form TP-250.1-V, *Election Respecting the Disposition of Canadian Securities*, and file it with your income tax return for the taxation year in which the sale took place. You cannot make the election if you were acting as a **broker** or **dealer in securities** (see the definition below) in respect of the sale, or if you were not resident in Canada at the time of the sale. If you were a member of a partnership that sold Canadian securities it owned, you are considered to have sold the securities yourself. You may make the election individually, without the other members of the partnership being required to do so.

Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of the form submitted to the CRA (form T123, *Election on Disposition of Canadian Securities*).

Broker or dealer in securities

One of the following persons, as applicable:

- a person who participates in the promotion or underwriting of a particular issue of shares, bonds, or other securities; or
- a person who publicly presents himself or herself as a broker of shares, bonds or other securities.

Note

However, an officer or employee of a person described above is not included in this definition, unless that officer or employee handles securities transactions as part of the promotional or underwriting activities of the employer concerned.

Sections 4.3.1 and 4.3.2 explain how to report capital gains and losses realized on the disposition of securities and other property.

4.3.1 Shares and mutual fund units

The net amounts of capital gains and losses resulting from the sale of shares and mutual fund units must be reported on the following lines of Schedule G:

- line 10, **unless** the shares are qualified farm property, qualified fishing property, qualified small business corporation shares or resource property;
- line 46, if the shares are classed as **resource property** (and are not qualified farm property, qualified fishing property or qualified small business corporation shares);
- line 52 or 53, if the shares are **qualified farm property** or **qualified fishing property** owned by you or your spouse, or line 56 or 58, if the shares were owned by a family farm partnership or a family fishing partnership of which you or your spouse was a member;
- line 54, if the shares are **qualified small business corporation shares** owned by you or your spouse, or line 56 or 58, if the shares were owned by a partnership to which you were related. See the note below.

See Chapter 7 for the definitions of "qualified farm property," "qualified fishing property" and "qualified small business corporation share."

Note

If a loss sustained on such shares is considered a business investment loss, it may be deducted from your income from all sources. Enter the loss on line 234 of your income tax return. For further information, read Chapter 9.

Shares of a bankrupt or insolvent corporation

If, in a previous year, you or a person with whom you were not dealing at arm's length sustained a capital loss or a business investment loss on a share of a corporation that went bankrupt or became insolvent, and the corporation (or a corporation it controlled) resumed its activities within 24 months after the date on which you or the

other person sustained the loss, **you must report a capital gain equal to the amount of the loss in question** if you were holding the share at the time the corporation resumed its activities.

4.3.2 Bonds and other securities or property

Capital gains and losses on **bonds and other securities or property** must be reported on line 12 of Schedule G. For example, a capital gain realized on the sale of a debenture, bill or note, an interest in a trust (including a unit of a unit trust that is not a mutual fund trust) or an interest in a partnership may be reported on this line.

For publicly traded securities, refer to the information on your RL-18 slip (or your T5008 slip if you did not receive an RL-18 slip), or on the statement of account you received from your stockbroker.

4.3.2.1 Bad debts

A bad debt is a debt that is uncollectible. A bad debt may be considered a capital loss or a business investment loss; in the latter case, the loss can be deducted on line 234 of your income tax return. For further information, read section 8.1.4 and Chapter 9.

If the debt resulted from a sale of personal-use property, the loss claimed must not exceed the capital gain reported on the property.

4.3.2.2 Other property

Other property
Includes (in this section) security options, foreign currency, discounts, premiums and bonuses, provided the sale of the property gives rise to a capital gain or loss.

Security options

The sale of a security option granted to you by your employer or a person not dealing at arm's length with your employer does not constitute a capital gain or loss.

In all other cases, the following rules apply:
- If the option you held expired during the year, you are deemed to have sold it and to have sustained a capital loss equal to the ACB of the option on the expiration date.
- If you sold your option during the year, the difference between the sale price and the ACB of the option constitutes your capital gain or loss.

Foreign currency

If you made foreign currency transactions that resulted in capital gains or losses, report only the portion of the net gain or net loss that exceeds $200.

To determine the net gain (or net loss), **subtract** total losses from total gains, where both amounts resulted from the exchange differential between Canadian and foreign currencies.

Discounts, premiums and bonuses

Some debt obligations include a discount when they are issued, a premium when they are redeemed, or a bonus payable before or at maturity.

A security is issued at a **discount** if the issue price is lower than the face amount. A security may also entitle the holder to a **premium** or **bonus** (an amount payable in addition to the face amount).

As a rule, if you purchased securities as an investor or if you made an election identical to that described in section 4.3, the amount of the discounts, premiums or bonuses granted to you constitutes a capital gain. This gain must be reported for the taxation year in which the security matures or the year of sale, as applicable.

Please note the following special rules concerning the reporting of discounts and premiums:
- If you receive a cash premium when a Québec or Canada savings bond reaches maturity, you must report one-half of it as interest.
- If you have a Treasury bill that was issued at a discount, and you redeem it at maturity, the amount by which the redemption price exceeds the issue price constitutes interest. However, if you sell the bill before it matures, you may have a capital gain or loss (as well as interest). The capital gain or loss is calculated by subtracting the total of the ACB and the interest from the sale price.

4.4 Personal-use property

Personal-use property
Property that you own in whole or in part and that serves primarily for your personal use or enjoyment, or for the personal use or enjoyment of one or more persons who belong to a group to which you and the persons related to you belong.

Note
> Personal-use property may include personal or household items, furniture, automobiles, houses, boats, antiques, etc., as well as debts owed to you further to the sale of such property or an option to purchase such property.

If you sold (for a consideration or no consideration) such property to a prescribed institution or authority, a certified archival centre or a Québec museum, and you received a document from the organization, certifying that the property is **cultural property**, go to section 4.6.

If the personal-use property is considered **precious property**, go to section 8.1.2.

4.4.1 Capital gains

You are required to report a capital gain realized on the sale of personal-use property only if the sale price is over $1,000. In this case, the ACB of the property is deemed to be equal to $1,000 or to the actual ACB, whichever is higher. This presumption is not applicable to property purchased as part of a **gifting arrangement** considered to be a tax shelter.

If you are required to report a capital gain realized on the sale of personal-use property, enter the amount on line 16 of Schedule G. The special rules applicable in the case of a principal residence (concerning change of use, transfer to a spouse, and the type of property that may be designated as a principal residence) are explained in section 4.5 below.

4.4.2 Capital losses

A capital loss resulting from the sale of personal-use property is **not deductible**, unless the property is a bad debt (see section 4.3.2.1) that was owed to you as the result of a sale of personal-use property to a person with whom you were dealing at arm's length at the time of the sale.

4.5 Principal residence

Since a residence is personal-use property, we suggest you read the definition of "personal-use property" in section 4.4 and the discussion of capital losses in section 4.4.2, before reading this section.

If you designate your residence as your **principal residence** for **all** the years you own it, you are not required to report the capital gain realized on its sale. If you do not designate it as such for all the years you own it, you may have to report a portion of the capital gain. Furthermore, you are not required to report the capital gain you realize **after April 21, 2005**, on the establishment of a real servitude encumbering your residence if you designate the residence as your principal residence for the year in which the servitude is established.

Consequently, you must complete form TP-274-V, *Designation of Property as a Principal Residence*, and enclose it with your income tax return for the year in the following situations:

- You disposed of your principal residence in whole or in part.
- You granted an option to purchase your principal residence in whole or in part.
- After April 21, 2005, you granted a real servitude encumbering your principal residence.

Form TP-274-V allows you to designate your property as your principal residence and, if applicable, to calculate the portion of your capital gain that is subject to income tax. This portion may be reduced if you or your spouse made an election to report a capital gain deemed to have been realized on your principal residence on February 22, 1994. To calculate this reduction, complete form TP-274.S-V, *Reduction of the Capital Gain Deemed to Have Been Realized on a Principal Residence*. Then carry the amount of the reduction to form TP-274-V, *Designation of Property as a Principal Residence.*

Below you will find information on the designation of a principal residence, and on the change-of-use rules that apply to property that was formerly, or has become, your principal residence.

4.5.1 Designation

You may designate as your principal residence for a given year a property that is

- a **housing unit** (see the definition below);
- a leasehold interest in a housing unit; or
- a share of the capital stock of a housing cooperative, which confers the right to inhabit a housing unit owned by the cooperative.

Housing unit

A house, dwelling in a rental building, in a duplex or in a condominium, cottage, mobile home, trailer or floating home.

A principal residence includes the land on which it is built as well as the adjoining land that may be reasonably considered necessary for the use and enjoyment of the residence. However, any portion of the total area of the lot exceeding one-half hectare is not considered part of the principal residence, unless the owner can show that the surplus is necessary for the use and enjoyment of the residence. Lots larger than one-half hectare may be necessary, for example, where

- a municipal bylaw or provincial law requires residential lots to be larger than one-half hectare;
- the location of a building makes a larger lot necessary in order to have access to public roads.

Conditions for designation

You may designate a property as your principal residence only **if you, your spouse, your former spouse or your child ordinarily used the property as a housing unit during the year**.

In the following cases, you may still designate property as your principal residence for the period during which you were not using it as a housing unit:

- You converted your principal residence to income-producing property.
- You converted income-producing property to your principal residence.

You may make such an election at the time of a change in use of the property. Further to the election, the property is deemed to have been your principal residence while you were using it to earn income (see section 4.5.2).

You may designate a property as your principal residence even if the time of occupation was short. This may be the case for a secondary residence, for example, provided it was not acquired mainly for the purpose of earning income. (A property that occasionally produces rental income is not considered to have been acquired for the purpose of earning income.)

You may not designate a property as your principal residence unless all of the following conditions are met:

- You own the property, alone or jointly with another person.
- You designate the property, to the exclusion of any other, as your principal residence for the year.
- No other property is designated as a principal residence for the year (in the case of years after 1981) by
  - you;
  - your spouse (unless he or she lived apart from you throughout the year, pursuant to a judicial separation or a written separation agreement);
  - your child (unless, during the year, he or she had a spouse or was aged 18 or over);
  - your father or mother, or your brother or sister (unless, during the year, the brother or sister had a spouse or was aged 18 or over), if you yourself did not have a spouse and were not aged 18 or over during the year.

4.5.2 Change of use and election

A change in the use of property constitutes a form of deemed sale. If you start using your principal residence to earn income or, conversely, you start using income-producing property as your principal residence, you are considered to have changed the use of the property.

In such cases you are considered to have sold the property at the time of the change of use for a sale price equal to its FMV at that time, and to have repurchased the property immediately thereafter at a cost equal to its FMV. However, in the case of a residence converted to income-producing property, you are not required to report the capital gain realized at the time of the change of use, provided you designate the property as your principal residence from the date you purchase it to the date you change its use.

Despite the change of use and the deemed sale, **you may make an election** whereby the change-of-use rules do not apply. In this case, you will not be required to report the capital gain (or loss) that would normally have resulted from the deemed sale. The sections that follow explain how to make such an election.

4.5.2.1 Principal residence converted to income-producing property

To make an election in respect of a principal residence that you converted to income-producing property, enclose with your income tax return for the year in which the change of use took place a letter in which you describe the property and state that you are making an election under section 284 of the *Taxation Act*. Under the terms of the election, you designate the property as your principal residence for the year or for any subsequent year in which you use the property to earn income. As a rule, the period covered by the designation **cannot exceed four years** (see note below).

Under a measure that came into effect on December 20, 2006, if you wish to make such a designation, you must first submit it to the CRA. A designation submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this designation.

You are still required to report the income you earn from the property. However, you cannot claim capital cost allowance with respect to the property.

Note

The four-year limit respecting designation as a principal residence may be extended if all of the following conditions are met:

- You are not living in your principal residence because of a change in the location of your or your spouse's place of work, and you or your spouse, as applicable, is dealing at arm's length with the employer.
- Your new dwelling is at least 40 kilometres closer to your or your spouse's new place of work.
- You resume living in your principal residence while you or your spouse holds the same employment, or before the end of the year following the year in which the employment ends.

4.5.2.2 Income-producing property converted to a principal residence

To make an election in respect of income-producing property that you converted to a principal residence, enclose with your income tax return for the year in which the change of use took place a letter in which you describe the property and state that you are making an election under section 286.1 of the *Taxation Act*. Under the terms of the election, you designate the property as your principal residence for the year or for any previous year in which you used the property to earn income. The period covered by the election **cannot exceed four years**.

For the election to be valid, both of the following conditions must be met:

- You, your spouse or a trust of which either of you is a beneficiary did not claim capital cost allowance with respect to the property after the date on which the use of the property changed or for any taxation year ending after 1984.
- You make the election by the earlier of the following dates:
  - the 90th day after Revenu Québec sends you a notice requesting that you make the election;
  - the filing deadline for the income tax return for the year in which you actually sold the property.

Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of the letter notifying the CRA of your election.

Please note that the election does not relieve you of the obligation to report a recapture of capital cost allowance resulting from the change of use of the property.

4.6 Cultural property

If you sold property (for a consideration or no consideration) to a prescribed institution or authority, a certified archival centre, or a Québec museum, and you received a document certifying that the property is cultural property, you are not required to report the capital gain realized on the transaction. If you sustained a loss, it is not deductible if the cultural property is personal-use property other than precious property (see section 4.4). However, the loss is deductible if the cultural property disposed of is precious property and certain conditions are met.

Note

> Property that is a testamentary gift to one of the above-mentioned donees is considered to be cultural property only if it is vested in the donee within 36 months after the donor's death. (The time limit can be extended if the donor's legal representative obtains the consent of Revenu Québec.)

4.7 Incorporeal capital property

The purchase price of incorporeal capital property is considered to be a capital expenditure, not a current expenditure. Therefore, as with depreciable property, you may not deduct the full purchase price in the calculation of your business income. However, you may include **three-quarters of the purchase price** in an "eligible incorporeal capital amount" account and claim an annual deduction of up to 7% of this amount. This procedure must be followed for **each business** in respect of which you hold incorporeal capital property. If you purchased incorporeal capital property from a person with whom you were not dealing at arm's length, see note 1 on page 20.

If you sold incorporeal capital property of a business during the fiscal period of the business that ended in the year for which you are completing your income tax return, you must subtract from the eligible incorporeal capital amount of the business **three-quarters of the amount** by which the sale price of the property **exceeds** the expenses incurred for the sale of the property. For further information, refer to the brochure *Business and Professional Income* (IN-155-V). If the eligible incorporeal capital amount is a **negative amount** at the end of the fiscal period, you must include an amount in the income of the business concerned (see line 15 of the work chart on page 19). You may, however, elect to **report as a capital gain** the taxable gain realized on the sale of incorporeal capital property whose original price can be determined (see note 2 on page 20).

If the incorporeal capital property is qualified farm property or qualified fishing property, you may be entitled to a capital gains deduction on qualified property. The amount, referred to as "farm or fishing income realized on the disposition of incorporeal capital property" on line 27 of the work chart, is deemed to be a capital gain for purposes of calculating the capital gains deduction and must be entered for information purposes on line 86 of Schedule G.

Incorporeal capital property: Amount qualifying for a capital gains deduction

Eligible incorporeal capital amount of the business at the end of the fiscal period.
Enter the amount only **if it is negative; do not use parentheses**. ____ 1

Total of the deductions on incorporeal capital property, for previous fiscal periods ending after the adjustment time* ____ 2

Total of the reductions that resulted from debt forgiveness and that were previously applied to the eligible incorporeal capital amount + ____ 3

Total of the deductions on incorporeal capital property, for fiscal periods that ended before the adjustment time ____ 4

Total of the amounts included with respect to incorporeal capital property for the fiscal periods covered on line 4 – ____ 5

Subtract line 5 from line 4. If the result is negative, enter 0. = ____ ► + ____ 6

Add lines 2, 3 and 6. = ____ 7

Total of the amounts included in the business's income with respect to the sale of incorporeal capital property, for previous fiscal periods but after the adjustment time, where the amounts are considered to be the recovery of deductions claimed – ____ 8

Subtract line 8 from line 7. = ____ 9

Amount from line 1 or 9, whichever is lower. This amount is considered to be the recovery of deductions claimed for previous fiscal periods and must be included in the business's income for the period (line 15).
If you enter the amount from line 1, go to line 14 and enter 0. ____ 10

Amount from line 6 ____ x **1/2** ► ____ 11

Amount from line 9 ____ + Amount from line 11 ____ ► – ____ 12

Subtract line 12 from line 1. If the result is negative, enter 0. = ____ 13

x **2/3**

Multiply line 13 by 2/3. = ____ 14

Business's income from incorporeal capital property:

Amount from line 10 ____ + Amount from line 14 ____ ► ____ 15

Continue your calculation only if the amount on line 14 is positive and the incorporeal capital property sold is **qualified farm property or qualified fishing property**.

		Fiscal periods beginning after 1987 but ending before February 28, 2000	Fiscal period ending after February 27, 2000, but before October 18, 2000	Fiscal periods ending after October 17, 2000	
Total sale price of incorporeal capital property that is qualified farm property or qualified fishing property of the business					16
Total cost of the incorporeal capital property covered on line 16	–				17
Subtract line 17 from line 16, in each column.	=				18
Non-deductible expenses incurred to sell the property	–				19
Subtract line 19 from line 18, in each column.	=				20
Inclusion rates	x	**3/4**	**2/3**	**1/2**	
Multiply line 20 by the applicable rate, in each column.	=				21

Total of the amounts on line 21 ____ 22

Total of the deemed taxable capital gains for fiscal periods beginning after 1987 and ending before February 23, 1994 ____ 23

Total of the deemed taxable capital gains (farm or fishing income realized on the disposition of incorporeal capital property) for previous fiscal periods ending after February 22, 1994 + ____ 24

Add lines 23 and 24. = ____ ► – ____ 25

Subtract line 25 from line 22. = ____ 26

Enter the amount from line 14 or 26, whichever is lower, and **carry it to line 86 of Schedule G**.
Farm or fishing income realized on the disposition of incorporeal capital property
(qualifying for the capital gains deduction on qualified property) ____ 27

* The adjustment time is the beginning of the first fiscal period that began after 1987.

Note 1

You must reduce the **amount obtained** by calculating three-quarters of the cost of an incorporeal capital property purchased during the year if

- you were not dealing at arm's length with the former owner (the person who sold the capital property to you); and
- the former owner is deemed to have realized a taxable gain (business income realized on the sale of incorporeal capital property, other than the recovery of the deductions claimed for previous fiscal periods, or a taxable capital gain where the former owner made the election mentioned in note 2) in respect of the incorporeal capital property.

The reduction equals the total of the following amounts:

- 50% of the taxable gain that the former owner is deemed to have realized; and
- the deduction claimed by the former owner with respect to the gain, if applicable.

Note 2

For incorporeal capital property (other than goodwill) whose original cost may be determined, and for which the sale price is higher than the original cost, you may make an election in order to benefit from the following presumptions:

- The incorporeal capital property is deemed to have been sold for proceeds equal to its cost (in which case the property is simply withdrawn from the eligible incorporeal capital amount of the business, with no effect on business income).
- The property is deemed to be capital property that was sold for proceeds equal to the actual sale price, and to have an ACB equal to the cost in question. The taxable capital gain realized may be reduced (or cancelled), provided you have a balance of net capital losses that may be carried over. The capital gain may even entitle you to the capital gains deduction on qualified property, if the capital property is qualified farm property or qualified fishing property.

5 Reserves

If you sell property in a given taxation year and a portion of the sale price is payable after the end of that year, you may claim a reserve for the capital gain reported with regard to the property for the year. However, you may not claim a reserve if either of the following situations applies to you:

- At the end of that year, or at any time in the following year, you were not resident in Canada or were exempt from income tax.
- You sold the property to
  - a corporation that you controlled, directly or indirectly, immediately after the transaction; or
  - a partnership in which you held a majority interest.

You may claim reserves on the following lines of Schedule G:

- line 32 or 38, for property **other than** qualified farm property, qualified fishing property, qualified small business corporation shares, or resource property (see note below);
- line 63 or 77, for **qualified farm property, qualified fishing property or qualified small business corporation shares**.

If you are claiming a reserve as a **member of a partnership**, read section 5.2.

A reserve deducted for a given year must be reported as a capital gain for the following year. This gain must be entered on line 36 or 71 of Schedule G. Under certain circumstances, a reserve that is treated as a capital gain gives entitlement to a capital gains deduction (see Chapter 7).

Note

In the case of **resource property** that is not classed as qualified farm property or qualified small business corporation shares, the reserve that you are required to report as a capital gain or that you deduct must be taken into account in calculating the amount on line 46 of Schedule G.

5.1 Calculating a reserve

The reserve that you may claim for a given taxation year is **equal to the lower of A or B**, calculated as follows:

$$A = \text{Capital gain} \quad \times \quad \frac{\text{Portion of sale price payable after the end of the year}}{\text{Sale price}}$$

$$B = \text{Capital gain} \quad \times \quad (4 - C) \div 5$$

You may replace "4" by "9" and "5" by "10" where a property listed below is farm property or is fishing property sold **after May 1, 2006**:

- land or depreciable property located in Canada that you, your spouse or one of your children used in the operation of a farming or fishing business;
- a share of the capital stock of a family farm corporation or a family fishing corporation, or an interest in a family farm partnership or a family fishing partnership; or
- a share of the capital stock of a small business corporation.

Variable C represents the number of taxation years, including the year of sale, prior to the taxation year in question. Variable C equals 0 if the calculation is for the year in which the sale occurred, 1 if it is for the following year, and so on.

Note

The reserve deducted for Québec income tax purposes must not exceed the reserve deducted for federal income tax purposes.

5.2 Reserve claimed by a member of a partnership

If the partnership of which you were a member deducted a reserve for a fiscal period that ended during your taxation year, and is **required to file a partnership return** for that fiscal period, the amount of the reserve will be shown in box 11 of the RL-15 slip. The partnership will have provided particulars concerning the reserve in the centre of the RL-15 slip. Use the amounts indicated in the centre of the RL-15 slip to reduce the capital gains shown in box 10 or 12 (or, if applicable, to increase the capital losses shown in box 10 or 12), and carry the result to Schedule G.

If the partnership is **not required to file a partnership return**, read the information that follows to find out how to report your reserve. If you need information on the sale of property by a partnership, read section 6.7 as well.

You must use the information the partnership is required to give you to determine your share of the partnership's reserve. Before entering your share of the partnership's capital gains on Schedule G, you must add to that amount your share of any reserve the partnership claimed for the previous year and subtract your share of any reserve the partnership is claiming for the current year. Before entering your share of the partnership's capital losses on Schedule G, you must subtract from that amount your share of the partnership's reserve for the previous year and add your share of the partnership's reserve for the current year.

If you are adding or deducting a reserve, you must take the reserve into account in calculating the amounts to be entered on the following lines of Schedule G:

- line 24, for property **other than** qualified farm property, qualified fishing property, qualified small business corporation shares or resource property;
- line 48, for **resource property** that is not classed as qualified farm property, qualified fishing property or qualified small business corporation shares;
- line 58, for **qualified farm property**, **qualified fishing property** and **qualified small business corporation shares**.

6 Information on special cases

This chapter explains the tax treatment of the following transactions and events:

- the transfer of property to a person with whom you are not dealing at arm's length;
- the sale of property followed by the purchase of replacement property;
- the sale and repurchase of eligible small business corporation shares;
- the donation of property to a charity or other qualified donee that is not a private foundation;
- the change in the use of property;
- emigration from Canada;
- the sale of property by a partnership of which you were a member.

6.1 Transfer of property between persons not dealing at arm's length

As a rule, **when you transfer property to a person with whom you are not dealing at arm's length** (see the definition of "at arm's length" in section 2.1.1), **for proceeds equal to zero or for consideration that is lower than the FMV of the property at the time of the transfer, you are deemed to have transferred the property for its FMV at that time.** The resulting capital gain or loss must be reported in your income tax return for the year of the transfer.

However, the *Taxation Act* provides for special rules and elections in the case of certain transfers discussed below.

6.1.1 Inter vivos transfer to a spouse, a former spouse or a personal trust

Where you transfer property directly or indirectly, through a trust or otherwise, to a person who is your spouse or former spouse, or to a personal trust, there are no immediate tax consequences for you, provided **you and the transferee are both resident in Canada** at the time of the transfer. You are thus taking advantage of the "**rollover rule**" (the consequences of this rule are explained in sections 6.1.1.1 and 6.1.1.2). In the case of a former spouse, the transfer must be made in accordance with a right resulting from the marriage or de facto union.

In this section, the term "personal trust" is used to refer to a spousal trust, an alter ego trust, a self-benefit trust or a joint spousal trust.

Spousal trust

As a rule, a trust for the exclusive benefit of the spouse during the spouse's lifetime; the spouse is entitled to receive all the income of the trust, and no one other than the spouse may receive or otherwise obtain the enjoyment of the trust's income or capital.

Alter ego trust

A trust created after 1999 by an individual who is at least 65 years of age; during the individual's lifetime, he or she receives all the income of the trust, and no other person may receive or otherwise obtain the use of any portion of the trust's income or capital.

Self-benefit trust

A trust created after 1999 by an individual who is under 65 years of age; during the individual's lifetime, he or she receives all the income of the trust, and no other person may receive or otherwise obtain the use of any portion of the trust's income or capital.

Joint spousal trust

A trust created after 1999 by an individual or by the individual and his or her spouse (where at least one of these persons is 65 or older), for their joint benefit during their lifetimes; while at least one of the spouses is alive, no one other than the individual or the spouse may receive or otherwise obtain the use of any portion of the trust's income or capital.

Where you transfer property to a personal trust, you may apply the rollover rule only if,

- in the case of a self-benefit trust, the transfer does **not** change the beneficial ownership of the property and, immediately following the transfer, no other person or partnership has an absolute or conditional right as a beneficiary of the trust;
- in the case of an alter ego trust or a self-benefit trust, the trust does **not** make an election, in the trust return filed for its first taxation year, whereby the first date of deemed sale would be (under the 21-year rule) the 21st anniversary of the creation of the trust, rather than on the date of your death (see section 5.1.5 of the *Guide to Filing the Trust Income Tax Return* [TP-646.G-V]).

Notes

Rules applicable to the transferee. For the transferee, the deemed purchase price of the property is equal to the deemed sale price of the property as determined in section 6.1.1.1 for non-depreciable property or section 6.1.1.2 for depreciable property. Furthermore, in the case of depreciable property, the transferee is deemed to have claimed the same amount of capital cost allowance (CCA) as you claimed. These considerations will affect the amounts to be reported or deducted by you or the transferee upon the subsequent sale of the property.

Allocation of income to the transferor. The rule respecting the allocation of income must be applied if you transferred or lent property directly or indirectly, through a trust or otherwise, to your spouse or a person who subsequently became your spouse. Under this rule, the capital gain (or capital loss) that your spouse realizes on the subsequent sale of the property is considered **your capital gain or loss**. Likewise, in the case of depreciable property, any terminal loss or recapture of CCA that this person realizes on the sale is considered **your CCA recapture or terminal loss**. The rule respecting the allocation of income applies if, at the time of the subsequent sale, you were still resident in Canada and were still the transferee's spouse. However, the rule does not apply to a deemed capital gain (or loss) that results from your spouse's leaving Canada, unless you and your spouse decide otherwise by making a joint election to that effect in your income tax returns for the first taxation year ending after the emigration.

Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this election.

Election not to apply the rollover rule. You may elect not to apply the rollover rule, so that your deemed sale price and the transferee's deemed purchase price are each considered equal to the FMV of the property at the time of transfer. You must then report the capital gain (or capital loss) and any resulting recapture of CCA (or any terminal loss) for the year in which the transfer took place. If there is a capital gain, you may be entitled to a capital gains deduction (see Chapter 7). You must enclose with your income tax return for the year in question a document proving that you made the election with the CRA pursuant to subsection 73(1) of the *Income Tax Act.*

6.1.1.1 Transfer of non-depreciable property

If you transfer non-depreciable property, the deemed sale price of the property is equal to its ACB immediately before the transfer.

However, if the property in question was your principal residence, it is considered

- to have been owned by your spouse or former spouse, or by the personal trust, from the time you purchased it; and
- to have been the principal residence of your spouse or former spouse, or of the personal trust, during all the years you used it as your principal residence.

You are therefore not required to file form TP-274-V, *Designation of Property as a Principal Residence,* with your income tax return for the year of the transfer. However, the form must be filed by your spouse or former spouse, or by the trust, for the year in which the property is sold or is deemed to have been sold.

6.1.1.2 Transfer of depreciable property

If you transfer depreciable property, the deemed sale price of the property is equal to the UCC attributable to the property. The UCC is the result of the following calculation: A x B ÷ C, where

A is the UCC of all the property in the same class;

B is the FMV of the property sold; and

C is the FMV of all the property in the same class.

6.1.2 Inter vivos transfer of farm property or fishing property to a child

If you transfer farm property or fishing property to one of your children or grandchildren resident in Canada at the time of the transfer, the resulting tax incidence for you is generally reduced. Regardless of the consideration you receive at the time of the transfer, the capital gain (or capital loss) you are required to report is calculated on the basis of your deemed sale price for the property. The deemed sale price is equal to the **median** of the following elements (neither the lowest nor the highest of the three):

- for non-depreciable property: the property's ACB, the property's FMV at the time of the transfer and the consideration received;
- for depreciable property: the UCC attributable to the property, the FMV and the consideration received.

The following examples illustrate the consequences of this rule for the transfer of non-depreciable property.

Example 1

ACB	FMV	Consideration	Deemed sale price
$17,000	$20,000	$24,000	$20,000

You are deemed to have realized a capital gain of $3,000 ($20,000 – $17,000 = $3,000), instead of $7,000 ($24,000 – $17,000 = $7,000).

Example 2

You give the land to your child.

ACB	FMV	Consideration	Deemed sale price
$17,000	$20,000	$0	$17,000

You are deemed not to have realized a capital gain in this case ($17,000 – $17,000 = $0). If you used the calculation given in the first paragraph of section 6.1, you would have a capital gain of $3,000 ($20,000 – $17,000 = $3,000).

Example 3

ACB	FMV	Consideration	Deemed sale price
$24,000	$20,000	$19,000	$20,000

You are deemed to have sustained a capital loss of $4,000 ($20,000 – $24,000 = -$4,000). You would obtain the same result if you proceeded as described in the first paragraph of section 6.1.

For further information, contact us.

Farm property or fishing property

As a rule, one of the following properties that belongs to you:

- land, depreciable property or incorporeal capital property, if such property is primarily used to carry on a farm or fishing business in Canada in which you, your spouse, your father, your mother or one of your children or grandchildren is actively engaged on a regular and continuous basis;
- land, depreciable property or incorporeal capital property, if such property is primarily used to carry on a business in Canada by
  - a family farm corporation or a family fishing corporation of which you, your spouse, your father, your mother or one of your children or grandchildren is a shareholder,
  - a family farm partnership or a family fishing partnership of which you, your spouse, your father, your mother or one of your children or grandchildren is a member;
- a share of the capital stock of a family farm corporation or a family fishing corporation, if all or substantially all of the FMV of the corporation's property is attributable to property primarily used to carry on a farm or fishing business in Canada in which you, your spouse, your father, your mother or one of your children or grandchildren is actively engaged on a regular and continuous basis;
- an interest in a family farm partnership or a family fishing partnership, if all or substantially all of the FMV of the partnership's property is attributable to property primarily used to carry on a farm or fishing business in Canada in which you, your spouse, your father, your mother or one of your children or grandchildren is actively engaged on a regular and continuous basis.

Notes

Rules applicable to transferees (one of your children or grandchildren). See the notes in section 6.1.1 on the same subject.

Income allocated to the transferor. If the consideration you received is less than the FMV, the capital gain (or capital loss) that the transferee may realize on the subsequent sale of the property is considered your capital gain (or capital loss) as long as the transferee is under 18 and you are still resident in Canada.

6.1.3 Transfer to a taxable Canadian corporation or a Canadian partnership

You may elect to be exempted from the rule under which the sale price of a property is equal to its FMV on the date of transfer if you transfer property to

- a taxable Canadian corporation for a consideration that includes a share of the capital stock of the corporation; or
- a Canadian partnership of which you become or remain a member immediately following the transfer.

To be exempted, you and the transferee (the corporation or partnership in question) must first make an **election** with the CRA in order to **agree on an amount** to be deemed the sale price of the property (known as the "agreed amount"). Then complete form TP-518-V, *Transfer of Property by a Taxpayer to a Taxable Canadian Corporation*, or form TP-614-V, *Transfer of Property to a Canadian Partnership*, as applicable. As a rule, you must enter the amount agreed on and indicated in the election form you submitted to the CRA (form T2059). You may, however, agree on a different amount if the conditions mentioned in form TP-518-V or form TP-614-V are met.

Pursuant to subsection 13(21.2) of the *Income Tax Act*, you cannot make the election where the transfer of depreciable property to a partnership is considered to be a transaction involving a person affiliated with you (see section 8.3.2). In such a case, the transferee partnership and you may still use form TP-614-V to file a **rollover application** with Revenu Québec, if the conditions mentioned in that form are met.

By completing and filing form TP-518-V or form TP-614-V, you may also make an **application to the Minister** to amend a previously filed form, in order to agree on an amount (if this has not already been done), to be deemed to have never agreed on an amount, or to agree on a new amount.

You must file form TP-518-V or form TP-614-V separately from any tax return, by the later of the following dates:

- the filing deadline for the tax return for your taxation year in which the transfer occurred or for the taxation year of the corporation (or partnership) in which the transfer occurred, whichever is earlier; or
- the last day of the two-month period following the end of one of these taxation years, whichever ends later.

You must enclose with this form a copy of every document filed with the CRA in accordance with subsection 85(1) or subsection 97(2) of the *Income Tax Act*, as applicable.

6.2 Sale of property followed by the purchase of replacement property

Property is considered replacement property only if it is reasonable to conclude that you purchased it to replace former property and you intend the same use for it as for the former property.

If you purchase replacement property, **you may elect** to defer taxation of the capital gain realized on the former property. The full amount of the capital gain may be deferred if the ACB of the replacement property is equal to or higher than the sale price of the former property; if this is not the case, only a portion of the gain may be deferred. The deferred capital gain will be taken into account in the taxation year in which the replacement property is sold, as you must use the amount of the deferred capital gain to reduce the cost of the replacement property or, if the replacement property is depreciable property, to reduce its capital cost. The situations in which you may make this election are described below.

Replacement property purchased further to the deemed sale of former property

If you are entitled to compensation following a deemed sale (expropriation, theft, destruction, etc.) of your property, the compensation is considered the deemed sale price of the property. If this deemed sale results in a capital gain, you may elect to defer taxation of the gain if you purchase replacement property within the prescribed time (see section 6.2.1).

Replacement property purchased for business purposes

If you sold former business property and thereby realized a capital gain, you may elect to defer taxation of the gain if you purchase replacement property within the prescribed time (see section 6.2.1).

In the case of depreciable property or incorporeal capital property, the election also allows you to defer taxation of an amount of CCA recapture, or of an eligible incorporeal capital amount that is negative.

6.2.1 Time limit for purchasing replacement property

In the case of a deemed sale of former property, the period for purchasing replacement property expires

- at the end of the second taxation year following
  - the taxation year in which you agreed on an amount as final compensation for the property;
  - the taxation year in which compensation is definitively determined by a court or tribunal; or
  - the second anniversary of the sale, provided no proceedings were undertaken before a court or tribunal in the two years following the sale; or
- the last day of the 24-month period following the end of the year of sale, if that date is later than the others referred to above.

In the case of a sale for business purposes, the period for purchasing replacement property expires on the later of the following dates:

- the end of the first taxation year following the year in which the sale price became due; or
- the last day of the 12-month period following the end of the year of sale.

6.2.2 Election

You must inform Revenu Québec of your election by enclosing, with your income tax return for the year the replacement property was purchased, a letter indicating that you are making an election under section 279 of the *Taxation Act*. If the replacement property is purchased one or two years after you reported a capital gain on the former property, we will adjust the income tax return for the year of purchase to take into account the election.

Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this election.

For further information, contact us.

Note

If you were unable to purchase the replacement property within the time limit referred to above, but can show that you took all the necessary measures to purchase the property within the time limit, you may elect to defer taxation of the capital gain realized on the former property.

6.3 Sale of eligible small business corporation shares and purchase of replacement shares

If you sold eligible small business corporation shares, **you may defer the taxation of your capital gain if you purchased other eligible small business corporation shares** within the specified time limit. The shares sold are called the "original shares" and the shares you subsequently purchase are called the "replacement shares." Your capital gain does not have to be included in your income for the year of sale, but must be used to reduce the ACB of the replacement shares. This will increase your capital gain (or reduce your capital loss) when you sell the replacement shares. In order to simplify the explanations that follow, the deferral of capital gains will be referred to as the "rollover rule."

In order to take advantage of the rollover rule, you must meet the following conditions:

- You held the original shares for a period of at least 185 days immediately prior to their sale, and during the entire period of your ownership, the shares were common shares of an eligible small business corporation.
- You purchased the replacement shares during the year in which the original shares were sold or within 120 days after the end of that year.

For the year the original shares are sold, you must enclose with your Québec income tax return a copy of any document submitted with the federal income tax return in which you designated the replacement shares.

Eligible small business corporation shares have the following characteristics:

- They are common shares issued by an eligible small business corporation.
- The carrying value of all the assets of this corporation and any related corporations does not exceed $50 million immediately before and immediately after the shares are issued.

Eligible small business corporation

A Canadian-controlled private corporation (CCPC) all or substantially all of the FMV of whose assets is attributable to

- assets used principally in an active business carried on primarily in Canada by the corporation or by an eligible small business corporation that is related to the corporation;
- shares issued by or debts owing by other eligible small business corporations that are related to the corporation.

Notes

A business is considered to be active in Canada if the corporation carries on the business primarily in Canada for at least 730 days within the period from the time the original shares were purchased to the time they were sold (or for the entire period, if it was shorter than 730 days). However, an eligible small business corporation does not include the following:

- a professional corporation;
- a specified financial institution;
- a corporation the principal business of which is the leasing, rental, development or sale of its immovable property;
- a corporation more than 50% of the FMV of whose property (after subtraction of any debts incurred to purchase the property) is attributable to immovable property.

A CCPC is a private corporation that is a Canadian corporation other than a corporation controlled by one or more persons not resident in Canada or by one or more public corporations (other than prescribed corporations).

How the rollover rule works

The rollover rule is intended for individuals (other than trusts). The rollover rule applies even if, at the time of sale, the corporation that issued the original shares is no longer a private corporation and the value of its assets has changed. The rollover rule also applies where the purchase of the shares is already covered by another rollover rule, such as the transfer of shares further to the death of a person's mother, father or spouse, or in settlement of a right resulting from a marriage or de facto union. In such cases, the person is deemed to have purchased the shares on the same date and under the same conditions as the father, mother, spouse or former spouse.

Use the following formulas to calculate the deferrable capital gain and the ACB reduction for the replacement shares:

- **Deferrable gain = A**, or **A × B ÷ C** if B is lower than C, where
  - A is the capital gain realized on the original shares in question;
  - B is the cost of the replacement shares; and
  - C is the sale price of the original shares.

Enter the amount of the gain you wish to defer on line 94 of Schedule G.

- **ACB reduction for replacement shares = D × E ÷ F,** where
  - D is the deferred capital gain;
  - E is the cost of one replacement share; and
  - F is the cost of all of the replacement shares.

6.4 Gifts to a charity or other donee

This section deals with **gifts of capital property** (gifts resulting in a capital gain or loss) that give entitlement to a tax credit because they are made to a registered charity, a government or another qualified donee (such as a registered Québec or Canadian amateur athletic association, a recognized arts organization, or the United Nations and its agencies).

As a rule, **the FMV of the property at the time the gift is made** (referred to as the "value of the gift" on the official receipt) is the deemed sale price of the property **for purposes of calculating the capital gain (or loss)**. However, the eligible amount of the gift (the amount indicated on the official receipt) is used to calculate the tax credit.

Where you are required to report a capital gain or CCA recapture as a result of the gift, **you may elect** to designate an amount to represent both the deemed sale price of the property and the value of the gift. The amount thus designated must be

- **no less than** the higher of the following amounts:
  - the amount of the benefit received in gratitude for, or as partial consideration for, the gift;
  - the ACB of the property or, in the case of depreciable property, the UCC at the end of the year (the UCC of the class to which the property belongs, calculated as though it were not a gift), whichever is lower; and
- **no more than** the deemed FMV of the property at the time the gift was made.

To make the election, you must enclose, with your income tax return for the year in which the gift was made, a letter informing us that you are designating such an amount under section 752.0.10.12 of the *Taxation Act.* Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this election.

Notes

Exception: The value of a gift made under a gifting arrangement (or the amount designated as such) is deemed equal to the lower of the following amounts: the cost of the property (or its ACB, as applicable) immediately before the donation, or the property's FMV determined otherwise. The same rule applies to a gift made within three years after the property was purchased or a gift you intended to make as of the time the property was purchased. However, this rule does not apply to a gift of inventory, immovable property located in Canada, cultural property, or a work of art donated to a Québec museum; an ecological gift or a gift of certain securities; a gift of bare ownership of cultural property or a work of art; or a musical instrument donated to a recognized educational institution.

Cultural property: For information concerning the rules applicable to gifts of cultural property, see section 4.6.

Gifts of certain types of property are subject to special rules for tax purposes, in particular the rules described in sections 6.4.1, 6.4.2 and 6.4.3.

6.4.1 Works of art

Special rule and election

If you donated a work of art which was not created by you and was not part of your inventory, and for which the donee organization was able to give you an official receipt, because it sold the work of art before December 31 of the fifth calendar year following the year of the donation, **the lower** of the following amounts is the **deemed FMV of the property at the time of the donation**:

- the amount that may reasonably be deemed the consideration the donee received upon selling the work of art; and
- the FMV of the work at the time of the sale.

Since the deemed sale price of the property corresponds to its deemed FMV, you must report a capital gain for the year of the donation if the deemed FMV of the property is **higher than its ACB**. You can calculate the gain by **electing to designate** an amount as both the deemed sale price and the value of the gift. The amount thus designated must be

- **no less than** the higher of the following amounts:
  - the amount of the benefit received in gratitude for, or as partial consideration for, the gift;
  - the ACB of the property, or, in the case of depreciable property, the UCC at the end of the year (the UCC of the class to which the property belongs, calculated as though it were not a gift), whichever is lower; and
- **no more than** the deemed FMV of the gift.

Adjustment

If **the donee organization does not sell the work of art in the year you donate it**, you must calculate the capital gain (or loss) according to the general rule (that is, taking into account that the **FMV of the property at the time it was donated is its deemed sale price**).

Once the organization has sold the work of art, provided it does so before December 31 of the fifth calendar year following the year of the donation, you may (if it is to your advantage) recalculate the capital gain or loss according to the above-mentioned special rule or election. You must then submit form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*, for the year of the donation in order to claim the tax credit for donations and gifts and, if applicable, take into account the new calculation of your capital gain or loss on the property. Moreover, under a measure that came into effect on December 20, 2006, if you wish to make such an election, you

must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this election.

6.4.2 Ecological gifts and gifts of certain securities

As a rule, the capital gain realized on the donation of any of the following property is exempt from income tax:

- ecological gifts (land with ecological value or a real servitude encumbering land with ecological value) made to a registered charity or any other qualified donee that is not a private foundation. You must enclose with your income tax return a certificate attesting to the FMV of the property, issued by the Ministère du Développement durable, de l'Environnement et des Parcs;
- a share or debt obligation listed on a stock exchange donated to a registered charity or any other qualified donee (but not a private foundation if the donation is made before March 19, 2007);
- a security donated to a registered charity or any other qualified donee that is not a private foundation, where the security is
  - a bond, debenture, note, hypothecary claim, mortgage or similar obligation, either issued or guaranteed by the Government of Canada, or issued by a provincial government or its mandatary,
  - a share of the capital stock of a mutual fund corporation,
  - a mutual fund unit, or
  - a unit of a segregated fund trust;
- a musical instrument donated to a recognized educational institution.

If you received an advantage in gratitude for, or as partial consideration for, the gift, **the portion of the capital gain equivalent to the value of the advantage is not exempt from income tax.** To calculate the adjusted capital gain, complete form TP-231-V, *Capital Gain Resulting from the Donation of Certain Property*.

Note

The deemed sale price of a real servitude encumbering ecological property and the value of the gift are each equal to the higher of the following amounts: the FMV of the servitude or the decrease in the market value of the land after the gift is made.

The ACB of the servitude is deemed equal to the ACB of the land prior to the donation, multiplied by the ratio between the deemed sale price (or the value of the gift) and the FMV of the land prior to the donation.

6.4.3 Life insurance policies

A life insurance policy is not capital property. If you donated a life insurance policy that had a redemption value, you must include **in your income** the amount by which the sale price **exceeds** the adjusted cost base of the policy immediately prior to the donation. Do not report this amount as a capital gain.

6.5 Change of use

If you purchase property in order to earn income but later use the property for another purpose (or purchase property for purposes other than earning income and later use it to earn income), you have changed the use of the property. In such cases you are deemed to have sold the property on the date of the change of use and to have repurchased it immediately thereafter at a cost equal to its FMV. Any capital gain or capital loss resulting from the deemed sale must be reported in your income tax return.

Where you purchase property for purposes other than earning income but subsequently use the property to earn income, **you may elect** not to have the above-mentioned rule apply. Further to the election, you are not required to report any capital gain that would have resulted from the deemed sale of the property. The election is valid only if you inform Revenu Québec, in a letter enclosed with your income tax return for the year of the change of use, that you are making an election with regard to the property, pursuant to section 284 of the *Taxation Act*. Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of every document submitted to the CRA with respect to this election.

You must report the income you earn by using the property, but you may not claim capital cost allowance with respect to it.

If the property concerned is your principal residence, read section 4.5.

6.6 Emigration

If you ceased to be resident in Canada at any time in the year, you are deemed to have sold your property immediately before that time for a sale price equal to its FMV, and to have repurchased the property at that time at a price equal to the deemed sale price. The capital gain or loss resulting from the deemed sale must be reported in your income tax return for the taxation year in which you ceased to be resident in Canada.

The following property is excepted:

- immovables situated in Canada, resource property and timber resource property;
- capital property used in carrying on a business in Canada, incorporeal capital property related to the business, and the inventory of the business;

- the right to receive pension benefits and similar rights (under a registered retirement savings plan [RRSP], a registered retirement income fund [RRIF], a deferred profit-sharing plan [DPSP], etc.), and rights respecting Canadian life insurance policies (except segregated fund policies);
- security options (options to purchase shares of the capital stock of a corporation or mutual fund units), if the options were granted by an employer or by a corporation with which the employer was not dealing at arm's length.

If you are required to pay income tax on a deemed sale of property because you ceased to be resident in Canada, **you may elect** to defer payment of the tax until the property concerned is actually sold, as long as you provide adequate security.

For further information, contact us.

6.7 Sale of property by a partnership

This section does not apply to you if the partnership of which you were a member is **required to file a partnership information return** for the fiscal period that ended during your taxation year. In this case, refer to the instructions on the reverse side of the RL-15 slip.

If the partnership of which you were a member **is not required to file a partnership return**, read the information in this section.

6.7.1 Capital property

Your share of the capital gains (or losses) realized on the sale of capital property will be indicated in the information the partnership is required to give you with its financial statements. If you deducted a reserve for the previous year with respect to your share of the capital gains realized by the partnership, or if you are deducting a reserve in this regard for the current year, see section 5.2 to find out how to report the reserve.

You must report your share of the partnership's capital gains (or losses) on the following lines of Schedule G:

- line 24, for property other than qualified farm property, qualified fishing property, qualified small business corporation shares or resource property;
- line 48, for resource property that is not classed as qualified farm property, qualified fishing property or qualified small business corporation shares;
- line 58, for qualified farm property, qualified fishing property and qualified small business corporation shares.

Note

The amount on line 58 entitles you to a capital gains deduction on qualified property; the amount on line 48 to another deduction (for capital gains realized on resource property). If a portion of the amount on line 58 relates both to qualified property and resource property, that portion also entitles you to this other deduction, provided you have used up the capital gains deduction on qualified property (see section 7.2).

6.7.2 Incorporeal capital property

If a partnership sold incorporeal capital property in the fiscal period, and its eligible incorporeal capital amount is negative at the end of that period, the partnership may complete the work chart in section 4.7. The amount on line 10 of the work chart must be included in the partnership's income, as business income realized on the sale of incorporeal capital property. Any amount on line 14 must be included in the partnership's income, as the amount by which this income exceeds the amount recovered with regard to deductions claimed for previous years.

If you have an interest in a family farm partnership or a family fishing partnership, the partnership must allot you a share of the amount indicated on line 27 of the work chart, as this amount may entitle you to the capital gains deduction. Carry the amount of your share to line 86 of Schedule G (for information purposes).

6.7.3 Canadian securities

The term "Canadian security" is defined at the beginning of section 4.3. If you were a member of a partnership when the partnership sold Canadian securities that it owned, you may elect to report as a capital gain (or loss) your share of any income or loss resulting from the sale of these securities and of all other Canadian securities the partnership owns or will own in the future. You may make the election **individually**, by completing form TP-250.1-V, *Election Respecting the Disposition of Canadian Securities*. Under the election, each Canadian security that the partnership sold during a fiscal period is deemed to have been sold by you, at the end of that fiscal period (see section 4.3).

Under a measure that came into effect on December 20, 2006, if you wish to make such an election, you must first submit it to the CRA. A valid election submitted to the CRA is considered to have been submitted to Revenu Québec as well. You must therefore attach to your Québec income tax return a copy of the form submitted to the CRA (form T123, *Election on Disposition of Canadian Securities*).

7 Capital gains deductions

There are two types of capital gains deductions, a deduction on qualified property and a deduction on resource property. If you are reporting a capital gain, you may be entitled to a deduction, depending on the type of property sold. A capital gains deduction may be claimed on **qualified property** or on **resource property**.

Sections 7.1 and 7.2 provide information on the deductions, the eligibility requirements, and the method of calculation.

Both of these deductions are reported on line 292 of the income tax return.

7.1 Capital gains deduction on qualified property

You may be entitled to a lifetime deduction for capital gains realized on qualified property. The cumulative maximum is **$500,000** for property sold before March 19, 2007, and **$750,000 for property sold after March 18, 2007**. Since the capital gains inclusion rate is 1/2, the cumulative maximum of the capital gains deduction is $250,000 or $375,000, depending on the date the property was sold.

Qualified property may be
- qualified farm property;
- qualified fishing property;
- qualified small business corporation shares; or
- incorporeal capital property classed as qualified farm property or qualified fishing property (for more information, see section 4.7).

The capital gains deduction on qualified property applies to capital gains reported in section C of Schedule G of the income tax return.

Qualified farm property

As a rule, any of the following properties that, at the time of the sale, belonged to you, to your spouse, or to a family farm partnership of which you or your spouse was a member:
- immovable property (land or buildings) or incorporeal capital property (milk or egg production quota) used primarily in a farming business in Canada
  - by a "designated person", that is, you, your spouse, your child, your grandchild, your father or your mother,
  - by a family farm corporation or a family farm partnership in which any of the designated persons holds a share or an interest, as applicable;
- a share of the capital stock of a family farm corporation; or
- an interest in a family farm partnership.

Notes

The immovable or the incorporeal capital property must have been held and used principally for carrying on the farming business throughout a period of at least 24 months immediately preceding the sale and,
- if the property belonged to a designated person, the person must have been actively engaged in the business on a regular and continuous basis, and must have earned more gross income from the business than from any other source, throughout a period of at least two years during which the person owned or held the property;
- if the property was used by a family farm corporation or a family farm partnership, the designated person must have been actively engaged in the business on a regular and continuous basis.

A real servitude encumbering a qualified farm property is considered a qualified farm property. The capital gain realized on the establishment of such a servitude may entitle you to a deduction.

Qualified fishing property

Any of the following properties that, at the time of the sale, you owned or held, and used for carrying on a fishing business in Québec:

- a fishing licence;
- an individual quota;
- a fishing boat.

Also, any of the following properties that, at the time of the sale, belonged to you, to your spouse, or to a family fishing partnership of which you or your spouse was a member:

- immovable property (land or buildings), a fishing vessel or incorporeal capital property, if such property was used primarily to carry on a fishing business in Canada
  - by a "designated person," that is, you, your spouse, your child, your grandchild, your father or your mother,
  - by a family fishing corporation or a family fishing partnership in which any of the designated persons holds a share or an interest, as applicable;
- a share of the capital stock of a family fishing corporation; or
- an interest in a family fishing partnership.

Notes

The catching of shellfish, crustaceans and marine animals and the harvesting of marine plants are considered to be activities related to a fishing business.

The requirements pertaining to holding and using qualified farm property also apply to qualified fishing property (see the notes in the definition of the term "qualified farm property").

Qualified small business corporation share

A share that, at the time of its sale, belonged to you, to your spouse, or to a partnership of which you were a member, and that had the following characteristics throughout the 24-month period immediately preceding its sale:

- It was owned by no one other than you, a person related to you or a partnership of which you were a member.
- It was part of the capital stock of a CCPC of which more than 50% of the FMV of the assets is, as applicable, composed of
  - assets used principally in an eligible business actively carried on, primarily in Canada, by the CCPC or a related corporation;
  - certain shares or debts of related corporations; or
  - a combination of the previous two categories.

Note

You are considered to be related to

- any person connected with you by blood, marriage or adoption; and
- any corporation controlled by you or by a member of a group connected with you.

Eligibility requirements and calculation of the deduction

You are entitled to a capital gains deduction on qualified property if you meet all of the following requirements:

- You were resident in Canada throughout the year for which you are reporting a taxable capital gain on qualified property, or you lived in Canada at some point during that year and throughout the preceding or following year.
- You report the capital gain on qualified property in your income tax return for the year in which the gain is realized.
- You file your income tax return no later than one year after the filing deadline.

To calculate the deduction, complete form TP-726.7-V, *Capital Gains Deduction on Qualified Property*.

If, at the end of the calendar year, it is determined that you have sustained a **cumulative net investment loss** (CNIL), the deduction to which you are entitled may be reduced. Your CNIL is the amount by which the expenses you incurred after 1987 to earn investment income **exceed** your investment income after 1987. Even if you are not claiming a capital gains deduction in a given year, you may be claiming one in a subsequent year. It is therefore a good idea to determine your CNIL every year. To determine your CNIL at the end of the year, complete form TP-726.6-V, *Cumulative Net Investment Loss*.

Under a measure that came into effect on **December 20, 2006,** the deduction to which you are entitled may depend on the deduction you claimed in your federal income tax return. If, in your federal income tax return, you claim an amount that is less than the maximum capital gains deduction to which you are entitled, you must claim **the same amount** in your Québec return, **provided the amount is lower than the maximum to which you are entitled for Québec income tax purposes**.

7.2 Capital gains deduction on resource property

You may be entitled to another deduction if you realized a capital gain on the sale of **resource property**; however, you must meet all of the requirements listed in section 7.1 under "Eligibility requirements and calculation of the deduction." If the property concerned is qualified farm property, qualified fishing property or qualified small business corporation shares, you may not claim this other deduction unless you have used up the capital gains deduction on qualified property.

Resource property

- A flow-through share issued **before June 13, 2003** (or after June 12, 2003, further to an investment made no later than June 12, 2003, or further to an application for a receipt for a final prospectus or for an exemption from filing a prospectus, made no later than that date), or **after March 30, 2004**;
- an interest in a partnership that invested in such flow-through shares, or an interest in a partnership that incurred Canadian exploration expenses or Canadian development expenses (except where the interest was purchased by an individual before March 31, 2004, as part of a public issue of securities further to an investment made after June 12, 2003, or further to an application for a receipt for a final prospectus or for an exemption from filing a prospectus made after that date);
- property substituted for a flow-through share or for an interest in a partnership described in the first and second points above (see the definition of "substituted property" opposite).

Substituted property

Property

- that was purchased by an individual
  - pursuant to an election made upon the transfer of property to a corporation or partnership, or upon the dissolution of a partnership,
  - pursuant to the winding-up of a subsidiary of a Canadian corporation, or
  - by reason of the amalgamation of Canadian corporations; and
- that the individual has elected to designate as **resource property**. The election must be made in a letter enclosed with the individual's income tax return for the year in which the substituted property was purchased.

Calculate the deduction on form TP-726.20.2-V, *Capital Gains Deduction on Resource Property.*

8 Deduction of capital losses

Read section 8.1 to determine whether the capital loss you sustained is deductible. If it is, read section 8.2 to find out how to apply the deduction.

8.1 Deductibility of capital losses

8.1.1 Depreciable property and personal-use property other than precious property

A capital loss cannot result from the sale of depreciable property (see section 4.2.2) or from the sale of personal-use property that is not precious property (see section 4.4.2).

8.1.2 Precious property

Precious property comprises the following personal-use property: prints, etchings, drawings, paintings, sculptures and other similar works of art, as well as jewellery, stamps and coins, and rare folios, books and manuscripts.

A loss on the sale of precious property may be deducted only from a gain on the sale of other precious property. However, you cannot deduct such a loss from a gain on precious property that is classed as cultural property, since gains realized on cultural property are not taxable.

8.1.3 Cultural property

Losses sustained on cultural property are deductible in some cases. If the cultural property is personal-use property but not precious property, the loss is not deductible. If the cultural property is precious property, see the preceding paragraph.

8.1.4 Bad debt or shares of a bankrupt or insolvent corporation

Debts

You may deduct a capital loss on a debt (or other right to receive an amount) only if you held the debt (or right)

- in order to earn business or property income, other than tax-exempt income; or
- as consideration for capital property (see the definition in Chapter 1) that you sold to a person with whom you were dealing at arm's length.

Furthermore, where a debt (as defined above) owing to you **at the end of the taxation year** is a bad debt (that is, a debt that has become uncollectible during the year), **you may make an election under which you are deemed to have sold the debt at that time for an amount equal to zero**, provided you enclose with your income tax return for that year a letter informing us that you are making the election under section 299 of the *Taxation Act*. You are then deemed to have sustained a capital loss equal to the amount of the debt. If the bad debt results from the sale of personal-use property, the loss you claim must not exceed the capital gain you reported on the sale of the personal-use property.

Shares of a bankrupt or insolvent corporation

If, **at the end of the taxation year**, you hold a share of the capital stock of a corporation that went bankrupt during the year, **you may elect to be deemed to have sold the share at that time for an amount equal to zero**, provided you enclose with your income tax return for that year a letter informing us that you are making the election under section 299 of the *Taxation Act*. You are then deemed to have sustained a capital loss equal to the ACB of the share (determined immediately before that time).

This is also the case if you held a share of the capital stock of an insolvent corporation that was wound up during the year, or of a corporation that was insolvent at the end of the year and that meets the following conditions:

- Neither the corporation nor a corporation controlled by it carries on a business.
- The FMV of the share is zero.
- It is reasonable to expect that the corporation will be dissolved or wound up and will not resume carrying on a business.

This election cannot be made with regard to a share that you received as consideration for the sale of personal-use property.

Note

> The capital loss that you sustain on the sale of a share or a debt may, under certain circumstances, constitute a business investment loss (which is deductible from income from all sources), rather than a capital loss (which is deductible only from capital gains). For further information, read Chapter 9.

8.2 Applying the deduction

A capital loss sustained on a property during a year may be deducted only from a capital gain realized on another property during the same year. If the result is

- a positive amount, this amount constitutes a net capital gain, of which the **taxable** portion must be included in your income as net taxable capital gains;
- a negative amount, the **deductible** portion of this amount constitutes a net capital loss. You may apply the amount of a net capital loss against any taxable capital gains you realized in the previous three years; any balance that remains may be carried to a subsequent year, provided you realized a net taxable capital gain in that year.

The amount of your taxable capital gains or allowable capital loss is shown on line 98 of Schedule G.

To carry a net capital loss to one of the previous three years, complete form TP-1012.A-V, *Carry-Back of a Loss*, and submit it to Revenu Québec no later than the filing deadline for the income tax return for the year in which the loss was sustained. To carry a loss to a subsequent year, complete form TP-729-V, *Carry-Forward of Net Capital Losses*.

The amount of the loss you are carrying over must be entered on line 290 of your income tax return for the year to which the loss is applied.

8.2.1 Order in which net capital losses must be carried over

You must apply your earliest capital loss against your earliest capital gain. For example, if you sustained a net capital loss in 2003 and again in 2005, and you wish to use these losses to reduce your net taxable capital gains for 2006 and 2007, you must begin by applying your 2003 loss against your 2006 gain. Any portion of the loss that is not absorbed by the gain for 2006 should be used to reduce the net taxable capital gains for 2007. Once your entire net capital loss for 2003 has been applied against capital gains, you may begin to use your net capital loss for 2005 to reduce your capital gains for other years.

8.2.2 Resumption of business activities by an insolvent corporation or a related corporation

Where you are deemed to have sustained a capital loss on a share of the capital stock of a corporation that is insolvent **at the end of a taxation year**, you (or a person with whom you are not dealing at arm's length) may be deemed to have realized a capital gain **at a particular time within the next 24 months**; this is the case if, at that time, the corporation (or a corporation that it controls) begins to carry on a business while you (or a person with whom you are not dealing at arm's length) are still holding the share. **The capital gain is equal to the ACB used to calculate the capital loss concerned.**

8.3 Deductibility of losses resulting from transactions involving an affiliated person

You **cannot deduct** a loss sustained on a disposition of property involving a person affiliated with you. Such a loss is subject to a deferral mechanism, the rules of which differ according to whether or not the property concerned is depreciable.

Notes

A trust or partnership disposed of property: If you are the trustee or a member of the partnership, you should refer to the *Guide to Filing the Trust Income Tax Return* (TP-646.G-V) or the *Guide to Filing the Partnership Information Return* (TP-600.G-V), as applicable.

Exceptions: A loss resulting from a transaction involving a person affiliated with you may be deductible in the following circumstances:

- You are deemed to have disposed of the property at the time of your death, your immigration to or emigration from Canada, or the change in use of the property.
- You are deemed to have disposed of a stock option when it expires.
- You are deemed to have disposed of a debt because it has become a bad debt.
- You are deemed to have disposed of a share of a corporation that went bankrupt or was insolvent at the time it was wound up.
- You become exempt from (or cease to be exempt from) Québec income tax within 30 days after the disposition of the property.

Person affiliated with you

- Yourself;
- your spouse;
- a corporation controlled directly or indirectly, in any manner whatsoever, by you, your spouse or a group of affiliated persons to which you or your spouse belongs;
- a partnership of which you are a majority-interest partner; or
- a trust of which you are a majority-interest beneficiary.

Notes

A **partnership** is considered a person.

A **group of affiliated persons** is a group of persons each member of which is affiliated with every other member.

You are a **majority-interest partner** of a partnership at a given time if you are in either of the following situations:

- Your share of the partnership's income from all sources for the partnership's fiscal period that ended before that time (or, in the case of a new partnership, the partnership's first fiscal period that includes that time) would have been greater than 50% had you held throughout that fiscal period the same interest that you (or a person affiliated with you) held at that time.
- You would receive (jointly with every person affiliated with you) more than 50% of the amount that the partnership would pay to all the partners otherwise than as a share of its income, were the partnership dissolved at that time.

You are a **majority-interest beneficiary** of a trust at a given time if you are in either of the following situations:

- The total FMV of your income interest in the trust and the income interests of all persons affiliated with you is greater than 50% of the FMV of all income interests in the trust.
- The total FMV of your capital interest in the trust and the capital interests of all persons affiliated with you is greater than 50% of the FMV of all capital interests in the trust.

Identical property

Property that is similar to another property in all aspects deemed important (for example, the type of property, the class to which it belongs, or the rights conferred on the holder of the property), or the right to purchase the other property.

8.3.1 Non-depreciable property

A loss sustained on the disposition of non-depreciable property is considered a superficial loss if the following conditions are met:

- During the period that begins 30 days before and ends 30 days after the disposition of a particular property, you or a person affiliated with you purchased replacement property (property that is, or is identical to, the particular property).
- At the end of that period, you or the person affiliated with you still owned or had the right to purchase the replacement property.

A superficial loss **is not deductible**; it must be added to the ACB of the replacement property purchased by you or the affiliated person.

As a rule, where a share you owned is redeemed by the issuing corporation, and the corporation is affiliated with you immediately after the transaction, the loss sustained on that transaction **is not deductible**. The ACB of each share you held immediately after the transaction is increased by the result of the following calculation:

$$\text{Amount of the loss} \times \frac{\text{FMV of the share immediately after the transaction}}{\text{FMV of all your shares in the corporation immediately after the transaction}}$$

8.3.2 Depreciable property

A loss sustained on the disposition of depreciable property is not deductible as a capital loss. You may, however, deduct a terminal loss if the property is the last in its class.

If the transaction involves a person affiliated with you, that is, if, on the 30th day following the disposition, you or a person affiliated with you owns or has the right to purchase the same property (unless the right is a guarantee, such as a mortgage), you cannot deduct this terminal loss. Instead, you may constitute a hypothetical property of the same class as the property disposed of; the capital cost of this hypothetical property will entitle you to capital cost allowance, and you may then deduct a terminal loss, if certain conditions are met.

9 Business investment losses

A business investment loss is a loss sustained during a year on the sale of

- a **share** of the capital stock of a small business corporation; or
- a **debt** owed by a small business corporation or by a Canadian-controlled private corporation (CCPC) that
  - went bankrupt while carrying on a small business, or
  - was insolvent, and was carrying on a small business at the time it was wound up.

Since business investment losses are generally capital losses, see also section 8.1.4 for the conditions pertaining to the recognition of such losses.

Small business corporation

A CCPC all or substantially all (at least 90%) of the FMV of whose assets is attributable, at a given time, to assets that are

- used principally in an "eligible business" (see the definition below) carried on primarily in Canada by the corporation or a related corporation;
- shares or debts of a corporation that is connected with the corporation and that is itself a small business corporation; or
- a combination of the assets described in the previous two points.

Note

To be considered a small business corporation at a given time for the purposes of a business investment loss, a corporation must have been a small business corporation at some point during the 12 months preceding that time.

Eligible business

Any business carried on by a taxpayer resident in Canada, other than a specified investment business or a personal services business.

9.1 Deductible amount of the loss

If you make an election under section 299 of the *Taxation Act*, you are deemed to have sold the debt or the share at the end of the year in question for proceeds equal to zero, and to have repurchased the debt or share immediately thereafter at a cost of zero. Consequently, the amount of the loss is equal to the amount of the debt or to the ACB of the share, immediately prior to the time of the deemed sale. If the debt results from the sale of personal-use property, and you are dealing at arm's length with the corporation concerned, the loss may not exceed the capital gain realized on the sale of the personal-use property.

You may deduct only the allowable portion of your total business investment losses for the year. Unlike capital losses, which can be applied against capital gains only, business investment losses can be deducted from your income from all sources.

As a rule, the allowable portion of your business investment losses is obtained by subtracting any capital gains deduction you claimed for a previous year and taking the inclusion rate into account. Complete form TP-232.1-V, *Business Investment Loss*.

9.2 Loss carry-over

If the allowable portion of your business investment losses exceeds your income, the difference may be carried back three years and forward ten years as a non-capital loss.

Any amount that cannot be carried back three years or forward ten years as a non-capital loss then becomes a capital loss.

If you decide to carry the loss to a future year, you may complete form TP-1012.A-V, *Carry-Back of a Loss*, to calculate the amount of the loss that may be carried over. However, if you decide to carry the balance to a **year preceding the year** of the loss, you are **required** to file the form and must do so no later than the filing deadline for the income tax return for the year in which you sustained the loss.

If you have more than one balance to carry over to a given year, you must begin with the earliest loss. For instance, you must carry over the balance of a loss sustained in 2005 before you carry over the balance of a loss sustained in 2007.

9.3 Resumption of business activities by an insolvent corporation or a related corporation

Where you are deemed to have sustained a business investment loss on a share of the capital stock of a corporation that is insolvent **at the end of a taxation year**, and you made an election under section 299 of the *Taxation Act*, you or a person with whom you are not dealing at arm's length may be deemed to have realized a capital gain **at a particular time within the next 24 months**; this is the case if, at that time, the corporation (or a corporation it controls) begins to carry on a business while you or that person is still holding the share. **The capital gain is equal to the ACB that was used to calculate the business investment loss.**

To contact us

By Internet

We invite you to visit our website at **www.revenu.gouv.qc.ca**.

By telephone

Hours of availability for telephone service
Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.
Wednesday: 10:00 a.m. to 4:30 p.m.

Information concerning individuals and individuals in business

Québec City	Montréal	Elsewhere (toll-free)
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By mail

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