

Tracking Federal Regulatory Initiatives

Regulatory Affairs

VOL. 4, No. 18

June 4, 1998

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Income Tax Regulations, amendment (Part LXXXVI)

The proposed amendment would:

- add 10 companies to the list of prescribed financial institutions;
- correct a cross-referencing error in section 8605 of those regulations which resulted, when determining the amounts considered in computing the taxable capital employed in Canada of a life insurance corporation, in a double counting of long-term debt; and
- modify the application of provisions pertaining to the previous prescriptions of corporations as financial institutions.

The regulations, among other things, list the companies that, while not meeting the "generic" definition of a financial institution, which includes banks, insurance companies and stockbrokers, are so similar to those corporations that treatment as financial institutions is warranted.

Income Tax Act, section 221

Published in Canada Gazette May 30, 1998

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

More specifically, the proposal would amend Section 8604 of the Regulations to add the following: CU Credit Inc.; Household Commercial Canada Inc.; Canadian Home Income Plan Corporation; Hudson's Bay Company Acceptance Limited; Bombardier Capital Ltd.; Trans Canada Credit Corporation; Norwest Financial Canada, Inc.; Norwest Financial Capital Canada, Inc.; GE Capital Canada Limited; and GE Capital Canada Retailer Financial Services Company.

The amendments would apply to taxation years beginning after May 1998.

Contact: Robin O. Maley, Tax Legislation Division, Department of Finance, L'Esplanade Laurier, East Tower, 17th Floor, 140 O'Connor Street, Ottawa, Ontario K1A 0G5. Tel: 613-992-4859.

Lancaster Sound Designated Area Regulations, amendment

The purpose of the proposed Regulations would be to prescribe the area of Exploration Licence 297 located in Lancaster Sound so that the Minister of Indian Affairs and Northern Development may extend its term by nine years, by way of a separate Ministerial Order.

The extension would protect the rights of the holders of the exploration licence. Exploration activity, however, would not proceed without an environmental review.

The exploration licence would be subject to the Nunavut Land Claims Settlement Agreement. When the revised Lancaster Sound [North Baffin] Regional Land Use Plan is approved, the Nunavut Planning Commission will be responsible for determining whether the proposed activity conforms to the land use plan and exploration activity will be authorized only after appropriate environmental screening has been conducted.

Contact: Lucie Napert, Chief, Rights Issuance and Policy, Northern Oil and Gas Directorate, Department of Indian Affairs and Northern Development, Les Terrasses de la Chaudière, 10 Wellington Street, Ottawa, Ontario K1A 0H4. Tel: 819-994-1606.

Food and Drug Regulations, amendment

Health Canada has given notice of its intention to amend the Regulations to establish Maximum Residue Limits (MRLs) for residues of clethodim, including its metabolites, in mustard seeds of 0.4 ppm and in sunflower (including sunola) seeds of 0.2 ppm.

An Interim Marketing Authorization (IMA) is being issued to permit the immediate sale of mustard seeds and sunflower (including sunola) seeds with MRLs for clethodim, including its metabolites, of 0.4 ppm in mustard seeds and 0.2 ppm in sunflower (including sunola) seeds while the regulatory process to amend the Regulations is undertaken.

Clethodim is registered in Canada under the *Pest Control Products Act* as a herbicide for the control of a wide range of annual and perennial grasses. Maximum Residue Limits (MRLs) have been established under the *Food and Drug Regulations* for residues of clethodim, including its metabolites, in soybeans, lentils, peas (dried), potatoes and flax seed.

Canada Petroleum Resources Act, subsection 26(4)

Published in Canada Gazette May 30, 1998

Food and Drugs Act

Published in Canada Gazette May 30, 1998

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

Food and Drug Regulations, Notice of Intention to Review Schedule F

Food and Drugs Act

Health Canada has given notice of its intention to undertake a policy analysis of Schedule F to the Food and Drug Regulations with the view to improving the process by which prescription drugs are listed and delisted and the description of substances in the schedule.

Published in Canada Gazette May 30, 1998

Schedule F is a list of drug substances the sale of which is controlled under sections C.01.041 to C.01.046 of the *Food and Drug Regulations*. Part I of Schedule F lists substances intended for human or veterinary use which require a prescription to be sold in Canada. Part II of Schedule F lists drugs which may be sold without a prescription when the drug is intended for veterinary use and is so labelled, but does require a prescription when sold for human use.

The decision to amend Schedule F is made by the Therapeutic Products Programme based on established criteria and the use of risk management principles. The amendment requires the implementation of the federal regulatory process which in turn demands several levels of approval, including that of the Special Committee of Council.

Other issues include how substances are listed and the lack of flexibility in describing these substances in a way to complement today's increasingly more complex dosage forms and delivery systems.

With the assistance of a focus group, the Therapeutic Products Programme intends to develop a discussion paper outlining the issues and possible alternatives to the current system. All interested parties will have an opportunity to comment on the discussion paper.

Contact: Susan Graham, Project Manager, Bureau of Policy and Coordination, Therapeutic Products Programme, Health Canada, Address Locator 0702B1, Tunney's Pasture, Ottawa, Ontario Canada K1A 0L2. E-mail: susan_graham@hc-sc.gc.ca.

Exempt from Pre-Publication and Approved

Statutory Authority

Pension Benefits Standards Regulations, 1985; Miscellaneous Amendment Regulations (Department of Finance and Office of the Superintendent of Financial Institutions) (SOR/98-302, OIC 1998-903)

Pension Benefits Standards Act, 1985, subsection 4(6)

The Regulations remove the retroactive effect (i.e., to January 1, 1992) of paragraph 1(b) of Schedule I of the *Pension Benefits Standards Regulations, 1985* (PBSR) which the Standing Joint Committee for the Scrutiny of Regulations has concluded goes beyond the relevant enabling authorities.

To be published in Canada Gazette June 10, 1998

The retroactivity provision related to the applicability of the Regulations to the Cape Breton Development Corporation private pension plan. Removal of the retroactivity will not cause prejudice to members of the Cape Breton Development Corporation private pension plan nor will it have any policy implications.

The Miscellaneous Amendments Regulations streamline the regulatory process and reduce costs.

Contact: Charles P. Johnston, Legislation Officer, Legislation and Precedents Division, Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario, K1A 0H2. Tel: 613-990-7472; Fax: 613-998-6716.

Exempt from Pre-Publication and Approved

Statutory Authority

Special Appointment Regulations, No. 1998-5 (SOR/98-301, OIC 1998-897)

The regulation makes the following appointment and exempts the appointment from the application of the Public Service Employment Act, except sections 32, 33 and 34, while the appointee is in the position:

- Barbara Hall as Special Advisor to the Minister of Justice, Attorney General of Canada and Solicitor General of Canada and National Chair, Steering Committee for the National Strategy on Community Safety and Crime Prevention.

Contact: Senior Personnel Management, Privy Council Office, Postal Station B Building, Ottawa, Ontario K1A 0A3. Tel: 613-957-5288

Public Service Employment Act, subsection 37(1)

To be published in Canada Gazette June 10, 1998

Armani Gabardine In-Transit Remission Order (SOR/98-303, OIC 1998-904)

This Order extends duty-free entry to Armani gabardine fabrics which were ordered and in-transit to Canada on April 30, 1998.

The tariff relief on this fabric will be terminated on April 30, 1998 as a result of a recommendation by the CITT (Report TA-97-001, dated February 26, 1998). After that date, imported Armani gabardine fabrics are subject to a Most-Favoured-Nation Tariff rate of 16%.

The duty foregone as a result of this Order should be minimal (less than \$250,000, based on preliminary estimates) since only a small number of importers would find themselves in this particular situation.

Contact: Osborne Todd, International Trade policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-996-6479; e-mail: Todd.Osborne@fin.gc.ca.

Customs Tariff, section 115

To be published in Canada Gazette June 10, 1998

Cathode Block Remission Order (SOR/98-304, OIC 1998-905)

This Order remits the 6.5% Most Favoured Nations tariff on cathode blocks imported between January 1, 1998 and December 31, 1999 for use in the production of aluminum. Cathode blocks are used in the production of primary aluminum and are an integral, but consumable, part of the machinery used to produce the metal.

At the next opportunity, an amendment will be proposed to the *Customs Tariff* to provide indeterminate duty-free entry for these goods. An estimated \$4.6 million in customs duties would be foregone over the two-year period.

Contact: Osborne Todd, International Trade policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-996-6479; e-mail: Todd.Osborne@fin.gc.ca.

Customs Tariff, section 115

To be published in Canada Gazette June 10, 1998

Crane Vessel "S7000" Remission Order (SOR/98-305, OIC 1998-906)

This Order remits the duties paid or payable on the "1/120th basis" on the temporary importation of the heavy-lift crane, "S7000", for use in the construction of the Sable offshore natural gas project.

The "S7000" is essential in the construction of the wellhead jackets and platforms given its precision lifting capabilities. The "S7000" will be in Canada temporarily for a total of about three months between March 1998 and the fall of 1999.

This Order would remit approximately \$1.9 million in duties and would remove a financial liability for the Sable offshore energy project. There are no similar floating cranes in Canada, and no Canadian shipyard has the capability to construct a heavy-lift crane vessel of this type.

Contact: Christine Wiecek, International Trade Policy Division, Department of Finance, Ottawa, Ontario, K1A 0G5. Tel: 613-992-6887.

Customs Tariff, section 115

To be published in Canada Gazette June 10, 1998

Exempt from Pre-Publication and Approved

Statutory Authority

Cardinal Nannies & Companions Inc. Remission Order (SI/98-63, OIC 1998-913)

This Order remits \$37,073.97 in tax payable under Part IX of the *Excise Tax Act* in respect of services provided by the company during the period beginning on January 1, 1991 and ending on September 30, 1994.

The remission is the result of the company having relied on incorrect advice provided by departmental officials on the tax status of certain of its services. As a result of the advice, the company failed to properly collect and remit tax on some of its supplies of nanny and companion placement services during the period in question.

Order Amending the Joint Canada-United States Government Projects Remission Order (SI/98-64, OIC 1998-914)

This amendment eliminates the remission of the air transportation tax under the *Joint Canada-United States Government Projects Remission Order*.

Insurable Earnings and Collection of Premiums Regulations, amendment (SOR/98-306, OIC 1998-915)

The amendment establishes January 1, 1997 as the “coming into force” date for an earlier amendment that erroneously omitted this date.

The amendment in question, P.C. 1998-284, SOR/98-137, added section 18.1 to deal with refunds issued to associated employers under the “New Hires” program. This program provides employment insurance premium relief (i.e. refunds) for all firms with employer premiums of less than \$60,000 in 1996. The amendment was to introduce a definition of “associated employer”, and to ensure that the total refund available to all the associated employers could not exceed the maximum refund available under the Act for a single employer.

The amendment takes advantage of the authority to enact the retroactive application found in section 91 of the 1997 budget implementation bill (Chapter 26 of the Annual Statutes of Canada, 1997, (Bill C-93)).

The addition of section 18.1 ensures that employers who are associated will be considered as a single employer and thus cannot receive a larger premium refund than they otherwise would have received.

Contact: Richard Montroy, Legislative Policy Division, 123 Slater Street, Ottawa, Ontario, K1A 0L5. Tel: 613-952-6479.

Theratronics International Limited Divestiture Regulations (SOR/98-308, OIC 1998-921)

The regulations are required to define the availability of pension benefits for employees transferring from Theratronics International Limited to a new employer on or after May 1, 1998.

The regulations provide that eligible individuals can access a lump sum benefit such as a return of contributions or a transfer value on ceasing to be employed in the Public Service. Individuals who do not exercise an option for a lump sum benefit retain the protection of their pension accruals under the *Public Service Superannuation Act*, as of the date they cease to be employed in the Public Service and their service with the new employer will count for benefit eligibility purposes under that Act.

Contact: Joan M. Arnold, Acting Director, Pensions Legislation Development Group, Pensions Division, Treasury Board Secretariat, Ottawa, Ontario, K1A 0R5. Tel: 613-952-3119.

Financial Administration Act, subsection 23(2)

To be published in Canada Gazette June 10, 1998

Financial Administration Act, subsection 23(2)

To be published in Canada Gazette June 10, 1998

Employment Insurance Act, section 82 and 108; *Budget Implementation Act, 1997*, section 91

To be published in Canada Gazette June 10, 1998

Nordion and Theratronics Divestiture Authorization Act, subsection 9(3) and (4)

To be published in Canada Gazette June 10, 1998

Exempt from Pre-Publication and Approved

Statutory Authority

Nordion and Theratronics Employees Pension Protection Regulations (SOR/98-309, OIC 1998-922)

The amendment ensures that the Regulations do not apply to Theratronics employees transferring to a new employer on or after May 1, 1998. Pension protection will be provided to these employees under the *Theratronics International Limited Divestiture Regulations*.

Contact: Joan M. Arnold, Acting Director, Pensions Legislation Development Group, Pensions Division, Treasury Board Secretariat, Ottawa, Ontario, K1A 0R5. Tel: 613-952-3119.

Nordion and Theratronics Divestiture Authorization Act, subsection 9(3) and (4)

To be published in Canada Gazette June 10, 1998

Order Prohibiting Entry on Certain Lands in the Yukon Territories (1998 - No. 5, First Nation of Nacho Nyak Dun, Y.T.) (SOR/98-310, OIC 1998-930); Order Respecting the Withdrawal of Certain Lands in the Yukon Territories (First Nation of Nacho Nyak Dun, Y.T.) (SI/98-66, OIC 1998-935); Order Prohibiting Entry on Certain Lands in the Yukon Territories (1998 - No. 6, Champagne and Aishihik First Nations, Y.T.) (SOR/98-311, OIC 1998-931); Order Respecting the Withdrawal of Certain Lands in the Yukon Territories (Champagne and Aishihik First Nations, Y.T.) (SI/98-65, OIC 1998-934); Order Prohibiting Entry on Certain Lands in the Yukon Territories (1998 - No. 7, Vuntut Gwitchin First Nation, Y.T.) (SOR/98-312, OIC 1998-932); Order Respecting the Withdrawal of Certain Lands in the Yukon Territories (Vuntut Gwitchin First Nation, Y.T.) (SI/98-67, OIC 1998-936); Order Prohibiting Entry on Certain Lands in the Yukon Territories (1998 - No. 8, Teslin Tlingit Council, Y.T.) (SOR/98-313, OIC 1998-933); Order Respecting the Withdrawal of Certain Lands in the Yukon Territories (Teslin Tlingit Council, Y.T.) (SI/98-68, OIC 1998-937)

The purpose of these Orders is to fulfill the terms of Umbrella Final Agreement for the Yukon First Nations, under which the Government of Canada has agreed that certain lands be prohibited from entry to ensure that no new third-party interests are created.

The Champagne and Aishihik First Nations, the Teslin Tlingit Council, the First Nation of Nacho Nyak Dun and the Vuntut Gwitchin First Nation have each negotiated their final land claim agreements separately with the federal government negotiators. Existing Prohibition of Entry Orders which protect the subsurface rights for these four Yukon First Nations, have a termination date of December 31, 1998.

With the approval of their land claims agreements entered into by Her Majesty the Queen in Right of Canada, the Government of the Yukon Territory and the four (4) Yukon First Nations, the existing Prohibition of Entry Orders are being repealed and replaced with new Orders in order to continue the protection of the Site Specific Settlement Land selections as per clause 5.14.4. of the Umbrella Final Agreement.

These Orders will be effective on the date of registration (May 28, 1998) and will end on the earlier of February 1, 2003, or upon registration of the survey plans of the Site Specific Settlement Land parcels with the Registrar of Land Titles, in the Yukon Territory.

The Orders being repealed are: P.C. 1995-272, 273, 274, 276, 277, 278, 1457, and 1473.

Yukon Placer Mining Act, section 98; *Yukon Quartz Mining Act*, section 14.1; *Territorial Lands Act*, paragraph 23(a)

To be published in Canada Gazette June 10, 1998

Exempt from Pre-Publication and Approved

Statutory Authority

The Withdrawal Order withdraws both designated lands and mines, minerals and hydrocarbon rights, except certain existing rights.

Contact: Chris Cuddy, Chief, Land & Water Management Division, Department of Indian Affairs and Northern Development, Les Terrasses de la Chaudière, 10 Wellington Street, Ottawa, Ontario, K1A 0H4. Tel: 819-994-7483; Fax: 819-953-2590.

Pre-Published and Approved With comments or changes

Statutory Authority

Definition of “Wireless Transmission System” Regulations (SOR/98-307, OIC 1998-919)

Copyright Act, subsection 68.1(5)

The Regulations define “wireless transmission system” for the purpose of section 68.1 of the *Copyright Act*.

Recent revisions to the *Copyright Act* provide that the Copyright Board is responsible for approving tariffs for the performance in public or the communication to the public by telecommunication of performers’ performances of musical works or of sound recordings embodying these (commonly referred to as the “neighbouring rights tariff”). Under the revised *Copyright Act*, when approving these tariffs, the Copyright Board must apply a special and transitional royalty rate for a “wireless transmission system” as set out in section 68.1 of the revised Act.

To be published in Canada Gazette June 10, 1998

By prescribing the meaning of the term “wireless transmission system”, these regulations define who will be the beneficiaries of the special and transitional royalty rate.

“Wireless transmission system” is defined as meaning a system operated by a terrestrial radio station that transmits in analog or digital mode a signal containing performers’ performances of musical works or sound recordings embodying the performers’ performances, in analog or digital form, whether in the A.M. or F.M. frequency band or in any other range assigned by the Minister under section 5 of the Radiocommunication Act, without artificial guide for free reception by the public.

These regulations ensure a clear and precise interpretation of who should benefit from a special and transitional royalty rate intended to reduce the financial impact on the radio broadcasting industry of the introduction of a new tariff. There will be no associated costs to the broadcasting industry or to the recording industry due to these regulations. A clear and precise definition of “wireless transmission system” will speed up the tariff-approval procedure at the Copyright Board, to the benefit of parties involved.

The regulations were prepublished for a 30-day public comment period in the Canada Gazette, Part I, on February 7, 1998. One written representation was received that suggested an amendment. After careful consideration, it was decided not to amend these regulations and instead to proceed with their implementation as pre-published.

Contact: Suzie Beaulieu, Legal Policy Analyst, Industry Canada, Intellectual Property Policy Directorate, 5th Floor, West Tower, 235 Queen Street, Ottawa, Ontario, K1A 0H5. Tel: 613-952-2377; Michelle L. Boudreau, Policy Analyst, Department of Canadian Heritage, Copyright Policy and Economic Planning, 4th Floor, Room 112, 15 Eddy Street, Hull, Québec, K1A 0M5. Tel: 819-997-5990.

Pre-Published and Approved With comments or changes

Statutory Authority

Migratory Birds Regulations, amendment (SOR/98-314, OIC 1998-947)

The amendment raises the cost of the Migratory Game Bird Hunting Permit by \$5.00 (from \$3.50 to \$8.50) beginning in the 1998-99 hunting season. The change was announced in the February 1996 federal budget and is a result of the second federal program review exercise to improve the focus of government spending through alternative service delivery and user fees.

Most provinces and territories, along with many hunters, oppose the increase. Contact: Stephen Wendt, Chief, Migratory Birds Conservation Division, Canadian Wildlife Service, Environment Canada, Ottawa, Ontario, K1A 0H3. Tel: 819-953-1422. Terry Mueller, Regulatory Analyst, Program Analysis and Coordination Division, Canadian Wildlife Service, Environment Canada, Ottawa, Ontario, K1A 0H3. Tel: 819-997-1272.

Migratory Birds Convention Act, 1994, section 12

To be published in Canada Gazette June 10, 1998

Order Repealing Certain Directions to the St. Lawrence Seaway Authority (SOR/98-315, OIC 1998-948); St. Lawrence Seaway Tariff of Tolls (SOR/98-316)

The first Order repeals Order in Council P.C. 1959-373 of March 26, 1959, effective June 1, 1998. The prior Order established the tolls on the St. Lawrence Seaway, based on an agreement between Canada and the United States.

The second Order establishes new tolls for the Seaway, in the absence of an agreement between Canada and the United States to raise tolls (the tolls have been effectively frozen since 1993).

The new Canadian tolls are part of a plan to commercialize the St. Lawrence Seaway but turning its operation and management over to a group of major users. The commercialization includes a commitment to toll increases of 2% per year for the next five years, with performance based adjustments of plus or minus 1.5%.

The Order establishes tolls which would apply to every vessel entering, passing through or leaving the St. Lawrence Seaway, effective June 1, 1998. The new toll will be assessed against the vessel, its cargo and its passengers for complete or partial transit of the Seaway covering a single trip in one direction. The tolls are due 45 days after the day on which the vessel enters the first lock of a transit of the Seaway.

The toll also sets out operational surcharges to be paid for vessels that report for final transit of the Seaway after the established clearance date, as well as incremental expenses incurred by the Seaway Authority to keep the Seaway open for transit of a vessel after the clearance date.

For example, the charge per gross registered ton of the vessel from Montreal to and from Lake Ontario is \$0.0816 and from Welland Canada, Lake Ontario to and from Lake Erie is \$0.1326; the charge per metric ton of cargo is \$0.8466 from Montreal and \$0.5610 from Welland Canal for bulk cargo and containerized cargo, \$2.0400 and \$0.8976 respectively for general cargo, \$1.8462 and \$0.6426 respectively for steel slab. The charge per passenger per lock is \$1.2036.

In addition to commercial tolls, the proposal also establishes the minimum charge per vessel per lock for pleasure craft (at \$10) and for vessels other than pleasure craft (\$15).

The proposed tolls were prepublished in the Canada Gazette, Part I on April 25, 1998. A number of parties opposed the increased tolls on the basis that any increase would adversely affect traffic on the Seaway.

Contact: Norman B. Willans, Counsel, The St. Lawrence Seaway Authority, Place de Ville, Tower B, 112 Kent Street, Suite 500, Ottawa, Ontario, K1P 5P2. Tel: 613-598-4605; Fax: 613-598-4620.

St. Lawrence Seaway Authority Act, subsection 16(1)

To be published in Canada Gazette June 10, 1998

Regulatory Affairs

ISSN 1201-0715



9 771201 071007
Editor: Mary Ferguson

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