Losses deductible

111 (1) For the purpose of computing the taxable income of a taxpayer for a taxation year, there may be deducted such portion as the taxpayer may claim of the taxpayer’s

Non-capital losses

(a) non-capital losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year;

Restricted interest and financing expenses

(a.1) restricted interest and financing expenses for taxation years preceding the year, but no amount is deductible for the year in respect of restricted interest and financing expenses except to the extent of the amount determined by the formula

$$A + B$$

where

A is the amount that would be the taxpayer’s excess capacity for the year if the amount determined for C in paragraph (b) of the definition **excess capacity** in subsection 18.2(1) were nil, and

B is the total of all amounts, each of which is an amount of **received capacity** (as defined in subsection 18.2(1)) of the taxpayer for the year;

Net capital losses

(b) net capital losses for taxation years preceding and the three taxation years immediately following the year;

Restricted farm losses

(c) restricted farm losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year, but no amount is deductible for the year in respect of restricted farm losses except to the extent of the taxpayer's incomes for the year from all farming businesses carried on by the taxpayer;

Farm losses

(d) farm losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year; and

Limited partnership losses

(e) limited partnership losses in respect of a partnership for taxation years preceding the year, but no amount is deductible for the year in respect of a limited partnership loss except to the extent of the amount by which

(i) the taxpayer's at-risk amount in respect of the partnership (within the meaning assigned by subsection 96(2.2)) at the end of the last fiscal period of the partnership ending in the taxation year

exceeds

(ii) the total of all amounts each of which is

(A) the amount required by subsection 127(8), 127.44(11), 127.45(8), 127.48(12), 127.49(8) or 127.491(12) in respect of the partnership to be added in computing the investment tax credit, the *CCUS tax credit* (as defined in subsection 127.44(1)), the *clean technology investment tax credit* (as defined in subsection 127.45(1)), the *clean hydrogen tax credit* (as defined in subsection 127.48(1)), the *CTM investment tax* *credit* (as defined in subsection 127.49(1)) or the *clean electricity investment tax credit* (as defined in subsection 127.491(1)) of the taxpayer for the taxation year,

(B) the taxpayer’s share of any losses of the partnership for that fiscal period from a business or property, or

(C) the taxpayer’s share of

(I) the foreign resource pool expenses, if any, incurred by the partnership in that fiscal period,

(II) the Canadian exploration expense, if any, incurred by the partnership in that fiscal period,

(III) the Canadian development expense, if any, incurred by the partnership in that fiscal period, and

(IV) the Canadian oil and gas property expense, if any, incurred by the partnership in that fiscal period.

Net capital losses

(1.1) Notwithstanding paragraph 111(1)(b), the amount that may be deducted under that paragraph in computing a taxpayer’s taxable income for a particular taxation year is the total of

(a) the lesser of

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the particular year, and

(ii) the total of all amounts each of which is an amount determined by the formula

$$\mathbf{A \times B/C}$$

where

A is the amount claimed under paragraph 111(1)(b) for the particular year by the taxpayer in respect of a net capital loss for a taxation year (in this paragraph referred to as the “loss year”),

B is the fraction that would be used for the particular year under section 38 in respect of the taxpayer if the taxpayer had a capital loss for the particular year, and

C is the fraction required to be used under section 38 in respect of the taxpayer for the loss year;

(b) where the taxpayer is an individual, the least of

(i) $2,000,

(ii) the taxpayer’s pre-1986 capital loss balance for the particular year, and

(iii) the amount, if any, by which

(A) the amount claimed under paragraph 111(1)(b) in respect of the taxpayer’s net capital losses for the particular year

exceeds

(B) the total of the amounts in respect of the taxpayer’s net capital losses that, using the formula in subparagraph 111(1.1)(a)(ii), would be required to be claimed under paragraph 111(1)(b) for the particular year to produce the amount determined under paragraph 111(1.1)(a) for the particular year; and

(c) the amount, if any, that the Minister determines to be reasonable in the circumstances for the particular year and after considering the application to the taxpayer of subsections

104(21.6), 130.1(4), 131(1) and 138.1(3.2) as they read in their application to the taxpayer’s last taxation year that began before November 2011.

Year of death

(2) Where a taxpayer dies in a taxation year, for the purpose of computing the taxpayer’s taxable income for that year and the immediately preceding taxation year, the following rules apply:

(a) paragraph 111(1)(b) shall be read as follows:

> **“111(1)(b)** the taxpayer’s net capital losses for all taxation years not claimed for the purpose of computing the taxpayer’s taxable income for any other taxation year;”; and

(b) paragraph (1.1)(b) is to be read as follows:

> “**(b)** the amount, if any, by which
>
> > **(i)** the amount claimed under paragraph (1)(b) in respect of the taxpayer’s net capital losses for the particular year
>
> exceeds the total of
>
> > **(ii)** all amounts in respect of the taxpayer’s net capital losses that, using the formula in subparagraph (a)(ii), would be required to be claimed under paragraph (1)(b) for the particular year to produce the amount determined under paragraph (a) for the particular year, and
> >
> > **(iii)** all amounts each of which is an amount deducted under section 110.6, 110.61 or 110.62 in computing the taxpayer’s taxable income for a taxation year, except to the extent that, where the particular year is the year in which the taxpayer died, the amount, if any, by which the amount determined under subparagraph (i) in respect of the taxpayer for the immediately preceding taxation year exceeds the amount so determined under subparagraph (ii).”

Limitation on deductibility

(3) For the purposes of subsection (1),

(a) an amount in respect of a non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible, and an amount in respect of a net capital loss for a taxation year may be claimed, in computing the taxable income of a taxpayer for a particular taxation year only to the extent that it exceeds the total of

(i) amounts deducted under this section in respect of that non-capital loss, restricted interest and financing expense, restricted farm loss, farm loss or limited partnership loss in computing taxable income (or, in the case of a restricted interest and financing expense, in computing a non-capital loss) for taxation years preceding the particular taxation year,

(i.1) the amount that was claimed under paragraph 111(1)(b) in respect of that net capital loss for taxation years preceding the particular taxation year,

(ii) amounts claimed in respect of that loss under paragraph 186(1)(c) for the year in which the loss was incurred or under paragraph 186(1)(d) for the particular taxation year and taxation years preceding the particular taxation year, and

(iii) amounts claimed in respect of that limited partnership loss in computing taxable income for taxation years preceding the particular taxation year to the extent that subsection 18.2(2) denied a deduction in respect of those amounts for the preceding taxation year; and

(b) no amount is deductible in respect of a non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year until

(i) in the case of a non-capital loss, the deductible non-capital losses,

(i.1) in the case of a restricted interest and financing expense, the restricted interest and financing expenses,

(ii) in the case of a net capital loss, the deductible net capital losses,

(iii) in the case of a restricted farm loss, the deductible restricted farm losses,

(iv) in the case of a farm loss, the deductible farm losses, and

(v) in the case of a limited partnership loss, the deductible limited partnership losses,

for preceding taxation years have been deducted.

Loss restriction event — capital losses

(4) Notwithstanding subsection (1), and subject to subsection (5.5), if at any time (in this subsection referred to as “that time”) a taxpayer is subject to a loss restriction event,

(a) no amount in respect of a net capital loss for a taxation year that ended before that time is deductible in computing the taxpayer’s taxable income for a taxation year that ends after that time;

(b) no amount in respect of a net capital loss for a taxation year that ends after that time is deductible in computing the taxpayer’s taxable income for a taxation year that ends before that time;

(c) in computing the adjusted cost base to the taxpayer at and after that time of each capital property, other than a depreciable property, of the taxpayer immediately before that time, there is to be deducted the amount, if any, by which the adjusted cost base to the taxpayer of the property immediately before that time exceeds its fair market value immediately before that time;

(d) each amount required by paragraph (c) to be deducted in computing the adjusted cost base to the taxpayer of a property is deemed to be a capital loss of the taxpayer for the taxation year that ended immediately before that time from the disposition of the property;

(e) if the taxpayer designates — in its return of income under this Part for the taxation year that ended immediately before that time or in a prescribed form filed with the Minister on or before the day that is 90 days after the day on which a notice of assessment of tax payable for the year or notification that no tax is payable for the year is sent to the taxpayer — a property that was a capital property of the taxpayer immediately before that time (other than a property in respect of which an amount would, but for this paragraph, be required by paragraph (c) to be deducted in computing its adjusted cost base to the taxpayer or a depreciable property of a prescribed class to which, but for this paragraph, subsection (5.1) would apply),

(i) the taxpayer is deemed to have disposed of the property at the time that is immediately before the time that is immediately before that time for proceeds of disposition equal to the lesser of

(A) the fair market value of the property immediately before that time, and

(B) the greater of the adjusted cost base to the taxpayer of the property immediately before the disposition and such amount as is designated by the taxpayer in respect of the property,

(ii) subject to subparagraph (iii), the taxpayer is deemed to have reacquired the property at that time at a cost equal to those proceeds of disposition, and

(iii) if the property is depreciable property of the taxpayer the capital cost of which to the taxpayer immediately before the disposition exceeds those proceeds of disposition, for the purposes of sections 13 and 20 and any regulations made for the purposes of paragraph 20(1)(a),

(A) the capital cost of the property to the taxpayer at that time is deemed to be the amount that was its capital cost immediately before the disposition, and

(B) the excess is deemed to have been allowed to the taxpayer in respect of the property under regulations made for the purposes of paragraph 20(1)(a) in computing the taxpayer's income for taxation years that ended before that time; and

(f) for the purposes of the definition ***capital dividend account*** in subsection 89(1), each amount that because of paragraph (d) or (e) is a capital loss or gain of the taxpayer from a disposition of a property for the taxation year that ended immediately before that time is deemed to be a capital loss or gain, as the case may be, of the taxpayer from the disposition of the property immediately before the time that a capital property of the taxpayer in respect of which paragraph (e) would be applicable would be deemed by that paragraph to have been disposed of by the taxpayer.

Loss restriction event — certain losses and expenses

(5) If at any time a taxpayer is subject to a loss restriction event,

(a) no amount in respect of the taxpayer’s non-capital loss, restricted interest and financing expense or farm loss for a taxation year that ended before that time is deductible by the taxpayer for a taxation year that ends after that time, except that the portion of the taxpayer’s non-capital loss, restricted interest and financing expense or farm loss, as the case may be, for a taxation year that ended before that time as may reasonably be regarded as the taxpayer’s loss from carrying on a business or the taxpayer’s expense or loss incurred in the course of carrying on a business, as the case may be, and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer’s taxable income for that year is deductible by the taxpayer for a particular taxation year that ends after that time

(i) only if that business was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the particular year, and

(ii) only to the extent of the total of the taxpayer’s income for the particular year from

(A) that business, and

(B) if properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services; and

(b) no amount in respect of the taxpayer's non-capital loss or farm loss for a taxation year that ends after that time is deductible by the taxpayer for a taxation year that ended before that time, except that the portion of the taxpayer's non-capital loss or farm loss, as the case may be, for a taxation year that ended after that time as may reasonably be regarded as the taxpayer's loss from carrying on a business and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer's taxable income for that year is deductible by the taxpayer for a particular taxation year that ends before that time

(i) only if throughout the taxation year and in the particular year that business was carried on by the taxpayer for profit or with a reasonable expectation of profit, and

(ii) only to the extent of the taxpayer's income for the particular year from

(A) that business, and

(B) if properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services.

Loss restriction event – cumulative unused excess capacity

(5.01) If at any time a particular taxpayer is subject to a loss restriction event, the cumulative unused excess capacity of any taxpayer for any taxation year that ends after that time shall be determined without regard to any absorbed capacity, excess capacity or transferred capacity of the particular taxpayer for any taxation year that ended before that time.

Loss restriction event — UCC computation

(5.1) Subject to subsection (5.5), if at any time a taxpayer is subject to a loss restriction event and, if this Act were read without reference to subsection 13(24), the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class immediately before that time would have exceeded the total of

(a) the fair market value of all the property of that class immediately before that time, and

(b) the amount in respect of property of that class otherwise allowed under regulations made under paragraph 20(1)(a) or deductible under subsection 20(16) in computing the taxpayer’s income for the taxation year that ended immediately before that time,

the excess is to be deducted in computing the taxpayer’s income for the taxation year that ended immediately before that time and is deemed to have been allowed in respect of property of that class under regulations made under paragraph 20(1)(a).

(5.2) [Repealed, 2016, c. 12, s. 40]

Loss restriction event — doubtful debts and bad debts

(5.3) Subject to subsection (5.5), if at any time a taxpayer is subject to a loss restriction event,

(a) no amount may be deducted under paragraph 20(1)(l) in computing the taxpayer's income for the taxation year that ended immediately before that time; and

(b) in respect of each debt owing to the taxpayer immediately before that time

(i) the amount that is the greatest amount that would, but for this subsection and subsection 26(2) of this Act and subsection 33(1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, have been deductible under paragraph 20(1)(l)

(A) is deemed to be a separate debt, and

(B) notwithstanding any other provision of this Act, is to be deducted as a bad debt under paragraph 20(1)(p) in computing the taxpayer's income for its taxation year that ended immediately before that time, and

(ii) the amount by which the debt exceeds that separate debt is deemed to be a separate debt incurred at the same time and under the same circumstances as the debt was incurred.

Non-capital loss

(5.4) Where, at any time, control of a corporation has been acquired by a person or persons, such portion of the corporation's non-capital loss for a taxation year ending before that time as

111(5.4)(a) was not deductible in computing the corporation’s income for a taxation year ending before that time, and

(b) can reasonably be considered to be a non-capital loss of a subsidiary corporation (in this subsection referred to as the “former subsidiary corporation”) from carrying on a particular business (in this subsection referred to as the “former subsidiary corporation’s loss business”) that was deemed by subsection 88(1.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on November 12, 1981 to be the non-capital loss of the corporation for the taxation year of the corporation in which the former subsidiary corporation’s loss year ended

shall be deemed to be a non-capital loss of the corporation from carrying on the former subsidiary corporation’s loss business.

Loss restriction event — special rules

(5.5) If at any time a taxpayer is subject to a loss restriction event,

(a) paragraphs (4)(c) to (f) and subsections (5.1) to (5.3) do not apply to the taxpayer in respect of the loss restriction event if at that time the taxpayer becomes or ceases to be exempt from tax under this Part on its taxable income; and

(b) if it can reasonably be considered that the main reason that the taxpayer is subject to the loss restriction event is to cause paragraph (4)(d) or any of subsections (5.1) to (5.3) to apply with respect to the loss restriction event, the following do not apply with respect to the loss restriction event:

(i) that provision and paragraph (4)(e), and

(ii) if that provision is paragraph (4)(d), paragraph (4)(c).

Limitation

(6) For the purposes of this section and paragraph 53(1)(i), any loss of a taxpayer for a taxation year from a farming business shall, after the taxpayer disposes of the land used in that farming business and to the extent that the amount of the loss is required by paragraph 53(1)(i) to be added in computing the adjusted cost base to the taxpayer of the land immediately before the disposition, be deemed not to be a loss.

Idem

(7) For the purposes of this section, any loss of a taxpayer for a taxation year from a farming business shall, to the extent that the loss is included in the amount of any deduction permitted by section 101 in computing the taxpayer’s income for any subsequent taxation year, be deemed not to be a loss of the taxpayer for the purpose of computing the taxpayer’s taxable income for that subsequent year or any taxation year subsequent thereto.

(7.1) to (7.2) [Repealed, 2013, c. 34, s. 241]

Non-capital losses of employee life and health trusts

(7.3) Paragraph (1)(a) does not apply in computing the taxable income of a trust for a taxation year if the trust is, in the year, an employee life and health trust.

Non-capital losses of employee life and health trusts

(7.4) For the purposes of computing the taxable income of an employee life and health trust for a taxation year, there may be deducted such portion as the trust may claim of the trust’s non-capital losses for the seven taxation years immediately preceding and the three taxation years immediately following the year.

Non-capital losses of employee life and health trusts

(7.5) Notwithstanding paragraph (1)(a) and subsection (7.4), no amount in respect of the trust’s non-capital losses for a taxation year in which the trust was an employee life and health trust may be deducted in computing the trust’s taxable income for another taxation year (referred to in this subsection as the “specified year”) if

(a) the trust was not an employee life and health trust for the specified year; or

(b) the trust is an employee life and health trust that, because of the application of subsection 144.1(3), is not permitted to deduct any amount under subsection 104(6) for the specified year.

Definitions

(8) In this section,

exchange rate, at any time in respect of a currency of a country other than Canada, means the rate of exchange between that currency and Canadian currency quoted by the Bank of Canada on the day that includes that time or, if that day is not a business day, on the day that immediately precedes that day, or a rate of exchange acceptable to the Minister; (*taux de change*)

farm loss of a taxpayer for a taxation year means the amount determined by the formula

$$A - C$$

where

A is the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the taxpayer’s loss for the year from a farming or fishing business

exceeds

(ii) the total of all amounts each of which is the taxpayer’s income for the year from a farming or fishing business, and

(b) the amount that would be the taxpayer’s non-capital loss for the year if the amount determined for D in the definition **non-capital loss** in this subsection were nil, and

B [Repealed, 2000, c. 19, s. 19]

C is the total of all amounts by which the farm loss of the taxpayer for the year is required to be reduced because of section 80; (*perte agricole*)

foreign currency debt means a debt obligation denominated in a currency of a country other than Canada; (*dette en monnaie étrangère*)

net capital loss of a taxpayer for a taxation year means the amount determined by the formula

$$A - B + C - D$$

where

A is the amount, if any, determined under subparagraph 3(b)(ii) in respect of the taxpayer for the year,

B is the lesser of the total determined under subparagraph 3(b)(i) in respect of the taxpayer for the year and the amount determined for A in respect of the taxpayer for the year,

C is the least of

(a) the amount of the allowable business investment losses of the taxpayer for the taxpayer’s tenth preceding taxation year,

(b) the amount, if any, by which the amount of the non-capital loss of the taxpayer for the taxpayer’s tenth preceding taxation year exceeds the total of all amounts in respect of that non-capital loss deducted in computing the taxpayer’s taxable income or claimed by the taxpayer under paragraph 186(1)(c) or (d) for the year or for any preceding taxation year, and

(c) if the taxpayer was subject to a loss restriction event before the end of the year and after the end of the taxpayer’s tenth preceding taxation year, nil, and

D is the total of all amounts by which the net capital loss of the taxpayer for the year is required to be reduced because of section 80; (*perte en capital nette*)

non-capital loss of a taxpayer for a taxation year means, at any time, the amount determined by the formula

$$(A + B) - (D + D.1 + D.2)$$

where

A is the amount determined by the formula

$$E - F$$

where

E is the total of all amounts each of which is

(a) the taxpayer’s loss for the year from an office, employment, business or property,

(a.1) an amount deductible under paragraph 104(6)(a.4) in computing the taxpayer’s income for the year,

(b) an amount deducted under paragraph (1)(a.1) or (b) or section 110.6, 110.61 or 110.62, or deductible under any of paragraphs 110(1)(d) to (g) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer’s taxable income for the year, or

(c) if that time is before the taxpayer’s eleventh following taxation year, the taxpayer’s allowable business investment loss for the year, and

F is the amount determined under paragraph 3(c) in respect of the taxpayer for the year,

B is the amount, if any, determined in respect of the taxpayer for the year under section 110.5 or subparagraph 115(1)(a)(vii),

C [Repealed, 2000, c. 19, s. 19]

D is the amount that would be the taxpayer’s farm loss for the year if the amount determined for B in the definition **farm loss** in this subsection were zero,

D.1 is the total of all amounts deducted under subsection 111(10) in respect of the taxpayer for the year, and

D.2 is the total of all amounts by which the non-capital loss of the taxpayer for the year is required to be reduced because of section 80; (*perte autre qu’une perte en capital*)

pre-1986 capital loss balance of an individual for a particular taxation year means the amount determined by the formula

$$(A + B) - (C + D + E + E.1)$$

where

A is the total of all amounts each of which is an amount determined by the formula

$$F - G$$

where

F is the individual’s net capital loss for a taxation year ending before 1985, and

G is the total of all amounts claimed under this section by the individual in respect of that loss in computing the individual's taxable income for taxation years preceding the particular taxation year, and

B is the amount determined by the formula

$$H - I$$

where

H is the lesser of

(a) the amount of the individual's net capital loss for the 1985 taxation year, and

(b) the amount, if any, by which the amount determined under subparagraph 3(e)(ii) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in respect of the individual for the 1985 taxation year exceeds the amount deductible by reason of paragraph 3(e) of that Act in computing the individual's taxable income for the 1985 taxation year, andI is the total of all amounts claimed under this section by the individual in respect of the individual's net capital loss for the 1985 taxation year in computing the individual's taxable income for taxation years preceding the particular taxation year, and

I is the total of all amounts claimed under this section by the individual in respect of the individual's net capital loss for the 1985 taxation year in computing the individual's taxable income for taxation years preceding the particular taxation year,

C is the total of all amounts deducted under section 110.6 in computing the individual's taxable income for taxation years that ended before 1988 or begin after October 17, 2000,

D is 3/4 of the total of all amounts each of which is an amount deducted under section 110.6 in computing the individual's taxable income for a taxation year, preceding the particular year, that

(a) ended after 1987 and before 1990, or

(b) began after February 27, 2000 and ended before October 18, 2000,

E is 2/3 of the total of all amounts deducted under section 110.6 in computing the individual's taxable income for taxation years, preceding the particular year, that ended after 1989 and before February 28, 2000, and

E.1 is the amount determined by the formula

$$J \times (0.5/K)$$

where

J is the amount deducted by the individual under section 110.6 for a taxation year of the individual, preceding the particular year, that includes February 28, 2000 or October 17, 2000, and

K is the fraction in paragraph 38(a) that applies to the individual for the individual's taxation year referred to in the description of J. (*solde des pertes en capital subies avant 1986*)

restricted interest and financing expense of a taxpayer for a taxation year means the amount determined by the formula

$$A + B + C$$

where

A is the total of all amounts each of which is the portion of an amount that is not deductible in computing the income for the taxation year of the taxpayer from a business or property, or the taxable income of the taxpayer for the year, or does not reduce the amount determined under paragraph 3(b) in respect of the taxpayer for the year, because of subsection 18.2(2),

B is the amount determined under paragraph 12(1)(l.2) in respect of the taxpayer for the taxation year, and

C is the total of all amounts, each of which is an amount determined by the formula

$$\mathbf{D \times E}$$

where

D is the portion of an amount that is not deductible because of subclause 95(2)(f.11)(ii)(D)(I), or an amount that is included because of subclause 95(2)(f.11)(ii)(D)(II), in determining, in respect of the taxpayer for an **affiliate taxation year** (as defined in subsection 18.2(1)) of a controlled foreign affiliate of the taxpayer ending in the taxation year, an amount of the affiliate that is described in subparagraph 95(2)(f)(ii), and

E is the taxpayer's **specified participating percentage** (as defined in subsection 18.2(1)) in respect of the affiliate for the affiliate taxation year; (*dépense d'intérêts et de financement restreinte*)

Exception

(9) In this section, a taxpayer's non-capital loss, restricted interest and financing expense, net capital loss, restricted farm loss, farm loss and limited partnership loss for a taxation year during which the taxpayer was not resident in Canada shall be determined as if

(a) in the part of the year throughout which the taxpayer was non-resident, if section 114 applies to the taxpayer in respect of the year, and

(b) throughout the year, in any other case,

the taxpayer had no income other than income described in any of subparagraphs 115(1)(a)(i) to (vi), the taxpayer’s only taxable capital gains, allowable capital losses and allowable business investment losses were from dispositions of taxable Canadian property (other than treaty-protected property) and the taxpayer’s only other losses were losses from the duties of an office or employment performed by the taxpayer in Canada and businesses (other than treaty-protected businesses) carried on by the taxpayer in Canada.

Fuel tax rebate loss abatement

(10) Where in a particular taxation year a taxpayer received an amount (in this subsection referred to as a “rebate”) as a fuel tax rebate under subsection 68.4(2) or (3.1) of the *Excise Tax Act*, in computing the taxpayer’s non-capital loss for a taxation year (in this subsection referred to as the “loss year”) that is one of the 7 taxation years preceding the particular year, there shall be deducted the lesser of

(a) the amount determined by the formula

$$10(A - B) - C$$

where

A is the total of all rebates received by the taxpayer in the particular year,

B is the total of all amounts, in respect of rebates received by the taxpayer in the particular year, repaid by the taxpayer under subsection 68.4(7) of that Act, and

C is the total of all amounts, in respect of rebates received in the particular year, deducted under this subsection in computing the taxpayer’s non-capital losses for other taxation years; and

(b) such amount as the taxpayer claims, not exceeding the portion of the taxpayer’s non-capital loss for the loss year (determined without reference to this subsection) that would be deductible in computing the taxpayer’s taxable income for the particular year if the taxpayer had sufficient income for the particular year from businesses carried on by the taxpayer in the particular year.

Fuel tax rebate — partnerships

(11) Where a taxpayer was a member of a partnership at any time in a fiscal period of the partnership during which it received a fuel tax rebate under subsection 68.4(2), (3) or (3.1) of the *Excise Tax Act*, the taxpayer is deemed

(a) to have received at that time as a rebate under subsection 68.4(2), 68.4(3) or 68.4(3.1), as the case may be, of that Act an amount equal to that proportion of the amount of the rebate received by the partnership that the member’s share of the partnership’s income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act; and

(b) to have paid as a repayment under subsection 68.4(7) of that Act an amount equal to that proportion of all amounts repaid under subsection 68.4(7) of that Act in respect of the rebate that the member’s share of the partnership’s income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act.

Foreign currency debt on loss restriction event

(12) For the purposes of subsection (4), if at any time a taxpayer owes a foreign currency debt in respect of which the taxpayer would have had, if the foreign currency debt had been repaid at that time, a capital loss or gain, the taxpayer is deemed to own at the time (in this subsection referred to as the “measurement time”) that is immediately before that time a property

(a) the adjusted cost base of which at the measurement time is the amount determined by the formula

$$\mathbf{A + B - C}$$

where

A is the amount of principal owed by the taxpayer under the foreign currency debt at the measurement time, calculated, for greater certainty, using the exchange rate applicable at the measurement time,

B is the portion of any gain, previously recognized in respect of the foreign currency debt because of this section, that is reasonably attributable to the amount described in A, and

C is the portion of any capital loss previously recognized in respect of the foreign currency debt because of this section, that is reasonably attributable to the amount described in A; and

(b) the fair market value of which is the amount that would be the amount of the principal owed by the taxpayer under the foreign currency debt at the measurement time if that amount were calculated using the exchange rate applicable at the time of the original borrowing.

[NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts and regulations.] ; R.S., 1985, c. 1 (5th Supp.), s. 111; 1994, c. 7, Sch. II,

s. 83, Sch. VI, s. 5, Sch. VIII, s. 49; 1995, c. 21, s. 36; 1997, c. 26, s. 84; 1999, c. 22, s. 28; 2000, c. 19, s. 19; 2001, c. 17, s. 87; 2002, c. 9, s. 34; 2005, c. 19, s. 20; 2006, c. 4, s. 57; 2009, c. 2, s. 30; 2010, c. 25, s. 21; 2013, c. 34, s. 241, c. 40, s. 47; 2016, c. 12, s. 40; 2017, c. 20, s. 10, c. 33, s. 40; 2021, c. 23, s. 16; 2024, c. 15, s. 27; 2024, c. 17, s. 24; 2024, c. 17, s. 80; 2026, c. 3, s. 38.

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