



NO.: **IT-474R2**

DATE: January 8, 2008

SUBJECT: INCOME TAX ACT
Amalgamations of Canadian Corporations

REFERENCE: Section 87 (also sections 88, 98, 111 and 116, subsections 10(1), 69(11), 89(1), 100(2.1), 245(2), 248(1), 251(3.1) and (3.2), 256(7) of the *Income Tax Act* (the “Act”) and sections 1100 and 1102 of the *Income Tax Regulations* (the “Regulations”))

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Explanation of Changes

Application

This bulletin replaces and cancels IT-474R dated March 14, 1986. The effective date of a particular legislative provision discussed in the bulletin may be indicated in the *Explanation of Changes* section (or, in some cases, in the *Discussion and Interpretation* section) of the bulletin. However, where the bulletin is silent with respect to the effective date of a particular provision, such date can be obtained from the legislation itself. Unless otherwise stated, all statutory references throughout the bulletin are to the Act.

Summary

This bulletin outlines the CRA's views on a number of issues relating to the amalgamation of two or more taxable Canadian corporations to which the rules in subsection 87(1) are applicable (hereinafter referred to as a "qualifying amalgamation"). Where a qualifying amalgamation occurs, the predecessor corporations are deemed to have a taxation year-end immediately before the amalgamation. Also, for purposes of computing its income, the corporation formed on a qualifying amalgamation is deemed to be a new corporation. In general, the new corporation formed on a qualifying amalgamation is considered to be a continuation of the predecessor corporations for most purposes of the Act. In addition, the shareholders of the predecessor corporations are generally deemed to have disposed of their shares for proceeds equal to their adjusted cost base and to have acquired their shares of the amalgamated corporation at that same amount.

Discussion and Interpretation

Definition

¶ 1. For the purposes of this bulletin, except ¶ 22:

Subsidiary wholly-owned corporation of a person means a corporation all of the issued and outstanding shares of which are owned by:

- (a) that person,
- (b) another corporation that is a subsidiary wholly-owned corporation of that person, or
- (c) any combination of persons described in (a) and (b) above.

Qualifying Amalgamations

¶ 2. Not all amalgamations or mergers qualify for the treatment provided under section 87. To qualify, there must be a merger of two or more taxable Canadian corporations (referred to in this bulletin as "predecessor corporations") to form one corporate entity (referred to in this bulletin as the "new corporation") in such manner that:

- (a) all of the property (except amounts receivable from any predecessor corporation or shares of the capital stock of any predecessor corporation) of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities (except amounts payable to any predecessor corporation) of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders (except any predecessor corporation), who owned shares of the capital stock of any predecessor corporation immediately before the merger, receive shares of the capital stock of the new corporation because of the merger.

The provisions of section 87, however, will not apply to acquisitions of property of one corporation by another corporation by means of the purchase of such property by the other corporation or as a result of the distribution of such property to the other corporation upon the winding-up of the corporation.

¶ 3. As described in ¶ 2, subsection 87(1) only applies to an amalgamation of two or more taxable Canadian corporations. The expression "taxable Canadian corporation" is defined in subsection 89(1) and is basically a corporation that is a "Canadian corporation" not exempt from Part I tax. A "Canadian corporation" is defined in subsection 89(1) as being a corporation that at the relevant time is resident in Canada and was either incorporated in Canada or resident in Canada throughout the period commencing June 18, 1971 and ending at that relevant time.

¶ 4. Subject to ¶ 21, the CRA accepts that the condition in ¶ 2(a) may be satisfied even if one of the properties of a predecessor corporation is:

- (a) an interest, such as a leasehold or royalty interest, in a property held by another predecessor corporation, which interest merges with that property on the amalgamation; or
- (b) a right or option to acquire shares of another predecessor corporation which right or option terminates on the amalgamation.

¶ 5. An amalgamation will not be disqualified under ¶ 2(c) solely because certain shareholders of the predecessor corporations receive consideration other than shares of the new corporation, such as cash, by virtue of exercising the statutory right available in certain jurisdictions to dissent to the amalgamation. In addition, as described in paragraph 28 of Information Circular 88-2, subsection 245(2) will ordinarily not be applied where an amalgamation is undertaken to squeeze out minority shareholders and the redeemable preferred shares received by the minority shareholders are redeemed shortly after the amalgamation.

¶ 6. Subsection 248(1) defines a shareholder to include a member or other person entitled to receive a dividend. A person can, therefore, be a shareholder of a corporation even

if that person does not own any shares of the corporation, for example a policyholder of a mutual insurance corporation. The fact that such a shareholder does not receive any shares of the new corporation because of the amalgamation will not cause the requirement described in ¶ 2(c) not to have been met.

Short-Form Amalgamations

¶ 7. In certain jurisdictions, a simplified procedure for amalgamating:

- (a) a corporation with one or more of its subsidiary wholly-owned corporations, or
- (b) two or more subsidiary wholly-owned corporations of the same corporation (i.e. sister corporations)

is permitted. Such amalgamations are commonly referred to as vertical and horizontal short-form amalgamations. No shares are issued by the new corporation on a short-form amalgamation. By virtue of subsection 87(1.1), the condition in ¶ 2(c) is met for these short-form amalgamations. A merger which qualifies as an amalgamation under subsection 87(1) by virtue of subsection 87(1.1) qualifies as an amalgamation for all purposes of section 87, including subsection 87(4) (see ¶s 36 and 38).

Triangular Amalgamations

¶ 8. Subsection 87(9) describes a form of amalgamation that is commonly referred to as a triangular (or three corner) amalgamation. In those jurisdictions that permit triangular amalgamations, persons who were shareholders of a predecessor corporation immediately before the amalgamation receive, instead of shares of the new corporation, shares of the taxable Canadian corporation (the parent) which controls the new corporation immediately following the amalgamation. Where a triangular amalgamation is carried out, paragraph 87(9)(a) provides that the shares received will be deemed to be shares of the new corporation for certain purposes. As a result, the condition described in ¶ 2(c) will be satisfied and the triangular amalgamation will qualify under subsection 87(1).

¶ 9. Paragraph 87(9)(c) provides special rules for determining the cost to the parent of shares of the new corporation acquired as a result of the amalgamation. This cost is calculated as the adjusted cost base of shares of the predecessor corporations owned by the parent plus, in circumstances where the parent owns all the issued shares of the new corporation immediately after the amalgamation, an additional amount determined under subparagraph 87(9)(c)(ii). In general terms, this additional amount is equal to the amount by which the tax cost of the assets (less liabilities) of the new corporation immediately after the amalgamation (as described in subclause 87(9)(c)(ii)(A)(I)) exceeds the total of the adjusted cost base to the parent of the shares of the predecessor corporations owned by it immediately before the amalgamation (hereinafter referred to as the Excess). Although the parent may choose how this additional amount is to be allocated to the different classes of

shares owned by the parent in the new corporation, the additional amount to be designated for a particular class of shares cannot exceed the amount, if any, by which the fair market value of the shares of the particular class issued on the amalgamation exceeds the cost of those shares to the parent as otherwise determined. In addition, the aggregate of amounts designated in respect of all classes of shares cannot exceed the Excess referred to above. This additional amount may be added to the adjusted cost base of the shares owned by the parent only if the parent makes a designation in respect of those shares for the taxation year in which the amalgamation occurred in its return of income for that year.

Effective Date of Amalgamation

¶ 10. The corporate entity formed as a result of the amalgamation is deemed by paragraph 87(2)(a) to be a new corporation the first taxation year of which commences “at the time of the amalgamation”. The taxation years of the predecessor corporations terminate “immediately before the amalgamation”. The effective date of amalgamation is governed by corporate law and is generally the date of issuance of letters patent or the date shown or set forth in the certificate of amalgamation, as the case may be. The time of the amalgamation is generally the earliest moment on that date in the absence of a particular time specified in the certificate of amalgamation. For example, where the fiscal years of the predecessor corporation normally end on December 31 and the effective date of amalgamation is January 1, the first taxation year of the new corporation will commence at the earliest moment on January 1, and the taxation years of the predecessor corporations will end at midnight on December 31. If the effective date of amalgamation is December 31, the first taxation year of the new corporation will commence at the earliest moment on December 31, and the taxation years of the predecessor corporations will end at midnight on December 30. Where the effective date of amalgamation is not the day after the normal fiscal year ends of the predecessor corporations, these corporations will have short fiscal years ending immediately before the amalgamation. This will be relevant to a number of tax calculations including capital cost allowance in these years and the duration of the period during which the new corporation may utilize losses of the predecessor corporations. Where the duration of such short fiscal years of the predecessor corporations would be a matter of days, for instance where the normal fiscal year ends are December 31 and the amalgamation takes place on January 2, and where there would be adverse implications in having short fiscal years, consideration should be given to requesting the Minister’s concurrence to extend such year ends to the date preceding the date of amalgamation. Any such request should be forwarded to the relevant tax services office. Under subsection 248(1), a fiscal period of a corporation can be up to 53 weeks.

Acquisition of Control Followed by an Amalgamation

¶ 11. It is not unusual for control of a corporation (“target”) to be acquired following which target is amalgamated either with the corporation that acquired control of it or with a corporation related to the controller. In such circumstances, subsection 249(4) will apply to deem a taxation year end of target immediately before the time that control is acquired. Also, paragraph 87(2)(a) will apply to deem target’s taxation year to end immediately before the amalgamation. Provided that the acquisition of control and the amalgamation occur on the same date and that:

- (a) no election under subsection 256(9) is made in respect of the acquisition of control; and
- (b) no time is specified in the certificate of amalgamation, the CRA will accept that the target will have only one deemed year end as a result of the acquisition of control of target and its subsequent amalgamation. This position is based on the fact that, provided that the conditions described in (a) and (b) above are met, the taxation year ends of target which are deemed to occur under both subsection 249(4) and paragraph 87(2)(a) will occur at the same time.

Multiple Amalgamations

¶ 12. It may be desirable to merge three or more taxable Canadian corporations to form one corporate entity; however, for commercial reasons the merger is carried out by successive amalgamations. For example, Corporation A owns all of the issued shares of both Corporation B and Corporation C. In order to merge the operations of all three corporations, it is decided to first implement a short-form horizontal amalgamation of Corporation B with Corporation C to form Corporation BC. Then Corporation BC is amalgamated with Corporation A in a vertical short-form amalgamation to form Corporation ABC. In such a situation, Corporation B and Corporation C will each be deemed by paragraph 87(2)(a) to have a taxation year end immediately before they amalgamate. Similarly, new Corporation BC will be deemed by paragraph 87(2)(a) to have a taxation year end immediately before its amalgamation with Corporation A. Consequently, any tax attributes (including non-capital losses and investment tax credits available for carry-forward) of either Corporation B or Corporation C which will be available to Corporation ABC will have aged by two taxation years as a result of the two amalgamations.

New Corporation

¶ 13. Under the corporate law in most jurisdictions, the corporate entity formed as a result of an amalgamation is a continuation of the predecessor corporations and the predecessor corporations do not cease to exist upon an amalgamation. However, paragraph 87(2)(a) deems the amalgamated corporation to be a new corporation for all purposes related to the computation of its income. Consequently, the new corporation will be free to choose any

fiscal year end it wishes provided that the new fiscal period does not exceed 53 weeks.

RULES RESPECTING THE NEW CORPORATION

Continuation

¶ 14. Since the corporation formed on a qualifying amalgamation is deemed by paragraph 87(2)(a) to be a new corporation, the remaining rules in subsection 87(2) are necessary for the purposes of computing the amalgamated corporation’s income. In general, these rules will deem the new corporation to be the same corporation as, and a continuation of, the predecessor corporations for the purposes of computing its income. However, in determining the tax consequences to the amalgamated corporation, reference should be made to the particular provision in question.

Method Adopted for Computing Income – Contractors

¶ 15. Payments and holdbacks which have not been included in the income of a predecessor corporation that is a contractor which used the “progress method” of computing income are included in the new corporation’s income when they become receivable. Where a predecessor corporation used the “completion method” of computing income on construction contracts, the deferred costs and revenues pertaining to all uncompleted jobs of that corporation flow through to the new corporation if the latter also adopts the completion method. The current version of IT-92, *Income of Contractors*, discusses the “progress method” and the “completion method” of computing income.

Inventory

¶ 16. Paragraph 87(2)(b) deems property described in the inventory of the new corporation at the beginning of its first taxation year to have been acquired by it at the amount at which the property was valued by the particular predecessor corporation for its taxation year ending immediately before the amalgamation. Where a predecessor corporation has used the cash method for computing its income from a farming business, the new corporation will be deemed to have acquired the inventory of that predecessor corporation at a cost equal to the amount included in the predecessor corporation’s income under paragraphs 28(1)(b) and (c) for the taxation year immediately before the amalgamation.

¶ 17. As described in ¶ 16, the new corporation acquires its inventory at the value used by its predecessor corporations and will generally be expected to follow the inventory valuation method adopted by its predecessor corporations for the purposes of computing its income. Where, however, the new corporation can establish that another valuation method which is sanctioned by subsection 10(1) provides a truer picture of the new corporation’s income, the new corporation may adopt such valuation method.

Depreciable Property

¶ 18. Paragraphs 87(2)(d) and (d.1) generally provide for a rollover of depreciable property. Where the new corporation's first taxation year is less than 12 months, the new corporation's capital cost allowance claims must be prorated in the manner set out in subsection 1100(3) of the Regulations. In addition, the "half-year rule" found in subsection 1100(2) of the Regulations will apply in determining the new corporation's maximum capital cost allowance otherwise allowable on most Schedule II depreciable property acquired from a predecessor corporation unless the conditions set out in paragraph 1100(2.2)(e) and paragraph 1100(2.2)(f) or (g) of the Regulations have been met. These conditions are as follows:

- (a) the predecessor was not dealing at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)) with the new corporation immediately before the amalgamation (paragraph 1100(2.2)(e)); and
- (b) the property was depreciable property of the predecessor and either:
 - (i) was owned continuously by the predecessor from a day that is at least 364 days before the end of the new corporation's first taxation year to the day that it was acquired by the new corporation (i.e. the date of the amalgamation) (paragraph 1100(2.2)(f)), or
 - (ii) subsection 1100(2.1) or 1100(2.2) of the Regulations applied to the predecessor corporation on its original acquisition of the property (paragraph 1100(2.2)(g)).

With respect to the condition described in (a) above, subsection 251(3.1) deems the new corporation formed on an amalgamation to be related to (and, therefore, not deal at arm's length with) a predecessor corporation where the two corporations would have been related immediately before the amalgamation if the new corporation had been in existence at that time with the same shareholders that it had after the amalgamation. For example, where the predecessor corporation was, immediately before the amalgamation, controlled by a person or group of persons and the new corporation was, immediately following the amalgamation, controlled by that same person or group of persons. In addition, subsection 251(3.2) provides that where there is an amalgamation of two or more related corporations (other than corporations which are related solely because of a right referred to in paragraph 251(5)(b)) the new corporation will be deemed to be related to (and thus not to deal at arm's length with) each of the predecessor corporations.

¶ 19. Where a predecessor corporation was not dealing at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)) with the new corporation immediately before the amalgamation, subsection 1102(14) of the Regulations deems property of a prescribed class or separate prescribed class of the predecessor corporation immediately before the amalgamation to be property of that same

prescribed class or separate prescribed class of the new corporation. For instance, where a property of a predecessor corporation is a timber limit prescribed by subsection 1101(3) of the Regulations to be a separate class of property, the property will be of that same separate prescribed class following the amalgamation and will not be a timber resource property as defined in subsection 13(21).

¶ 20. Subsection 1102(20) of the Regulations is an anti-avoidance rule which will deem the new corporation and a predecessor corporation to be dealing at arm's length for the purposes, inter alia, of subsection 1100(2.2) and 1102(14) of the Regulations. This anti-avoidance provision will apply where a new corporation would be considered not to deal at arm's length with a predecessor corporation as a result of a transaction or series of transactions the principal purpose of which may reasonably be considered to have been to cause subsection 1100(2.2) or 1102(14) of the Regulations to apply to a given amalgamation.

¶ 21. Where one predecessor corporation has a leasehold interest in a property owned by a second predecessor corporation, the application of section 87 to the amalgamation will only be accepted where subsection 13(5.1) is applied concurrently as if the new corporation is the same corporation as, and a continuation of, the first mentioned predecessor corporation. In this way, the undepreciated capital cost of the leasehold interest is carried over to the new corporation and the new corporation may, if and to the extent the Regulations permit, claim capital cost allowance in respect thereof. The predecessor corporation may not claim a terminal loss in respect of the leasehold interest and the capital cost allowance claimed by it becomes subject to the recapture rules in the hands of the new corporation.

Addition to Cost of Capital Property

¶ 22. Paragraph 87(11)(b) provides that where there has been an amalgamation under subsection 87(1) of a corporation (referred to in this paragraph as the "parent") and one or more of its subsidiary wholly-owned corporations (which, for the purposes of subsection 87(11), means that the parent owns all of the shares of the subsidiary other than directors' qualifying shares and referred to in this paragraph as the "subsidiary"), the cost to the new corporation of each capital property of the subsidiary acquired on the amalgamation is deemed to be the amount that would have been the cost to the parent of the property if the property had been distributed at that time to the parent on a winding-up of the subsidiary and subsections 88(1) and (1.7) had applied to the winding-up. Consequently, the new corporation may be able to increase the cost amount of certain non-depreciable capital property that it acquires from the subsidiary on the amalgamation to the extent that such property is not otherwise an "ineligible property" as defined in subparagraphs 88(1)(c)(iii) to (vi). Generally, the increase (the "bump amount") will only be available where the adjusted cost base of the parent's shares in the subsidiary

immediately before the amalgamation exceeds the tax value of the subsidiary's property at that time less certain other amounts. The bump amount may be allocated among any eligible properties (i.e. non-depreciable capital property that is not ineligible property and which was owned by the subsidiary without interruption from the time control of the subsidiary was last acquired by the parent to the time immediately before the amalgamation) as the new corporation chooses by making a designation in respect of each such property in its income tax return under Part I for its first taxation year. However, the bump amount allocated to any particular eligible property may not result in the cost amount of that property being greater than its fair market value at the time the parent last acquired control of the subsidiary.

Subsection 87(11) relies upon subsection 88(1) and subsection 88(1.7) to determine the type of property that qualifies for the increase and the amount of the increase in respect of each such property. In other words, to determine the bump amount which would be available to the amalgamated corporation it would be necessary to determine the amount of the bump which, under similar circumstances, would have been available under paragraphs 88(1)(c) and (d) if the subsidiary had instead been wound-up into the parent. As well, subsection 87(11) relies upon subsection 88(1) to determine the parent's proceeds of disposition arising from the parent's disposition of the subsidiary's shares on the amalgamation.

Partnership Interests

¶ 23. Where the new corporation and the predecessor corporation are related (see ¶ 18), paragraph 87(2)(e.1) provides that the new corporation's cost of a partnership interest held by the predecessor corporation is an amount equal to the cost of that interest to the predecessor corporation. Also, to ensure that all adjustments required to be made by the predecessor corporation in computing the adjusted cost base of the partnership interest will be taken into account in computing the new corporation's capital gain or loss from a subsequent disposition of the partnership interest, paragraph 87(2)(e.1) deems that the new corporation is the same corporation as, and a continuation of, the predecessor corporation in respect of that partnership interest. Consequently, any negative adjusted cost base of the partnership interest to the predecessor corporation will flow through to the amalgamated corporation.

¶ 24. Where the new corporation was not related to the predecessor corporation, subsection 100(2.1) deems the predecessor corporation to have disposed of its partnership interest immediately before the amalgamation for proceeds of disposition equal to its adjusted cost base and deems the new corporation to have acquired the partnership interest at a cost equal to those proceeds. As a result, the predecessor corporation will be required under subsection 100(2) to recognize a gain on the disposition of any partnership interest which had a negative adjusted cost base immediately before the amalgamation. The rule in subsection 100(2.1) will apply

even where the amalgamation is not a qualifying amalgamation for the purposes of section 87.

¶ 25. No particular tax problems result where as a matter of law a Canadian partnership continues to exist following an amalgamation involving one or more of its corporate partners. However, where a Canadian partnership ceases to exist because of an amalgamation involving one or more of the corporate partners, subsection 98(5) will not be applicable to provide a rollover where the new corporation is to carry on the business of the former partnership and subsection 98(6) will not be applicable to provide a rollover where a new partnership is formed having the new corporation as one of its partners. This problem can generally be avoided by having the partnership dissolve prior to the amalgamation with each partner receiving undivided interests in the partnership property so as to be eligible for the rollover under subsection 98(3). Those former partners that then amalgamate would have their undivided interests in the various properties combined in the new corporation with the benefit of the various rollovers provided in subsection 87(2). Where it is proposed that the new corporation enter into a Canadian partnership, advantage could be taken of the rollover provided in subsection 97(2).

Repayments of Assistance

¶ 26. Paragraph 87(2)(j.6) deems the new corporation to be the same corporation as and a continuation of each predecessor corporation for purposes of the provisions of the Act which deal with repayments of assistance. Therefore, where the new corporation repays all or any part of such assistance that was received by a predecessor corporation, the repayment is treated in the same manner as described in the current version of IT-273, *Government Assistance – General Comments*.

Options Granted by Predecessor Corporation

¶ 27. While paragraph 87(2)(o) deals with the expiry of options to which subsection 49(2) applies, there is no provision dealing with options of any type granted by a predecessor corporation which are exercised after amalgamation. Subsections 49(3), (3.01), (3.1) and (4) will therefore not be applicable to the new corporation in this situation.

Losses

¶ 28. Subsection 87(2.1) permits, subject to the restrictions in subsections 111(3) to 111(5.4) and paragraph 149(10)(c), the new corporation to deduct any net capital losses, non-capital losses, restricted farm losses, farm losses or limited partnership losses of the predecessor corporations in the same manner and to the same extent that such losses would have been deductible by the predecessor corporations had there not been an amalgamation. Subsection 87(2.1) does not, however, permit the carry-back of any losses incurred by the new corporation to any predecessor corporation (see

however ¶ 30) nor does it affect the determination of the fiscal periods or incomes of the new corporation or any predecessor corporation.

¶ 29. Where an amalgamation results in an acquisition of control, the restrictions described in subsections 111(4) to (5.4) will be applicable. Paragraph 256(7)(b) sets out the rules which apply to determine whether there has been an acquisition of control where two or more corporations have amalgamated to form one corporate entity. Subparagraph 256(7)(b)(i) provides that control of a corporation will not be deemed to have been acquired solely because of an amalgamation unless one of the following rules applies to deem control to have been acquired.

- (a) Subparagraph 256(7)(b)(ii) provides that where a person or group of persons controls the new corporation immediately after the amalgamation and that person or group did not control a particular predecessor corporation, that person or group is deemed to have acquired control of that predecessor corporation and each corporation controlled by it immediately before the amalgamation. This provision will not apply, however, if the person or group of persons which controls the new corporation would not have acquired control of the particular predecessor corporation if that person or group had acquired all of the shares of the predecessor corporation immediately before the amalgamation. For example, on the amalgamation of two or more corporations which were controlled by related persons prior to the amalgamation, no acquisition of control of a predecessor will occur as paragraph 256(7)(a) would apply if the related persons had acquired all of the shares of the predecessor corporations prior to the amalgamation.
- (b) Subparagraph 256(7)(b)(iii) provides that control of a predecessor corporation and each corporation controlled by it immediately before the amalgamation is deemed to have been acquired by a person or group of persons unless:
 - (i) the predecessor corporation was related (otherwise than because of a right referred to in paragraph 251(5)(b)) to each other predecessor corporation immediately before the amalgamation;
 - (ii) if a hypothetical person had, immediately after the amalgamation, acquired all of the shares of the new corporation received by the shareholders of the particular predecessor corporation (or another predecessor corporation that controlled the particular predecessor corporation) on the amalgamation in exchange for their shares of the predecessor corporation (or the other predecessor corporation, as the case may be), that hypothetical person would have acquired control of the new corporation; or
 - (iii) subparagraph 256(7)(b)(iii) would otherwise apply to deem control of each predecessor

corporation to have been acquired in an amalgamation of two corporations or two corporations and one or more of their controlled subsidiaries. For example, this exception would apply where two corporations of equal value amalgamated and the shareholders of each corporation received on the amalgamation 50% of the voting shares of the new corporation.

Notwithstanding the provisions of subparagraph 256(7)(b)(i), it is the opinion of the CRA that paragraph 256(7)(c) may apply to certain triangular amalgamations. For example, consider the situation where the shareholders of a public corporation (Pubco) acquire shares of a loss company (Lossco) on a triangular amalgamation of Pubco and a subsidiary wholly-owned corporation of Lossco. Since the shareholders of Pubco have acquired more than 50% of the shares of Lossco on the triangular amalgamation, paragraph 256(7)(c) will deem there to have been an acquisition of control of Lossco. In our view, subparagraph 256(7)(b)(i) does not override the acquisition of control under paragraph 256(7)(c) as control of Lossco has not been acquired solely because of the amalgamation.

The CRA's views on the application of subsections 111(3) to 111(5.4) and paragraphs 256(7)(a) and (b) are discussed in detail in the current version of IT-302 .

¶ 30. Subsection 87(2.11) applies in the case of the amalgamation of a parent corporation and one or more of its subsidiary wholly-owned corporations and deems the new corporation to be the same corporation as, and a continuation of, the parent corporation for, amongst other things, the purposes of section 111 and Part IV in respect of the parent corporation. It, therefore, allows the new corporation formed on a qualifying vertical amalgamation to apply its post-amalgamation losses against the pre-amalgamation income of the parent predecessor corporation. Subsection 87(2.11) does not, however, permit losses of the subsidiary wholly-owned corporation to be applied against the taxable income of the predecessor parent for any taxation year prior to the amalgamation nor does it permit the post-amalgamation losses of the amalgamated corporation to be applied against the taxable income of the predecessor subsidiary for any taxation year prior to the amalgamation. In effect, subsection 87(2.11) permits the parent corporation following a vertical amalgamation to be treated in much the same manner as if the subsidiary had been wound up under subsection 88(1) into the parent.

Subsection 87(2.11) may be applied to successive amalgamations of a parent corporation to allow the losses incurred by the new corporation to be carried back to offset the taxable income of the original parent predecessor corporation. For example, Parent owns all of the issued shares of Subsidiary 1 that owns all of the issued shares of Subsidiary 2. Parent amalgamates with Subsidiary 1 to form Parent 2. Parent 2 then amalgamates with Subsidiary 2 to form Amalco. Any losses incurred by Amalco may, subject to the time limits set out in subsection 111(1), be carried back to reduce the taxable income of Parent by virtue of

subsection 87(2.11). However, as discussed in ¶ 12, each taxation year resulting from the successive amalgamations will have to be taken into account in determining to which taxation year of Parent the losses of Amalco may be applied.

¶ 31. Where a predecessor corporation's losses have been carried forward to the new corporation under the provisions of subsection 87(2.1), it is the CRA's view that these provisions or the provisions of subsections 88(1.1), (1.2) or (1.3) can be applicable to such losses in the event that the new corporation subsequently amalgamates pursuant to section 87 or is wound-up pursuant to subsection 88(1). Similarly, where a subsidiary's losses have been carried forward to the parent under the provisions of subsections 88(1.1), (1.2) and (1.3), these losses can be carried forward to the new corporation on a subsequent amalgamation pursuant to section 87 involving the parent.

Filing of Elections

¶ 32. Where the laws governing an amalgamation provide that the predecessor corporations are continued in the amalgamated corporation, the amalgamated entity may file an election under the various provisions contained in the Act on behalf of a predecessor corporation provided that the predecessor corporation itself would otherwise be eligible to file the election on its own behalf if the amalgamation had not occurred. For example, the amalgamated corporation may file an election under subsection 85(1), subject to the time limits referred to in subsection 85(6) or within the parameters of subsections 85(7) or (7.1), for a property transfer which involved one or more of the predecessor corporations.

Objections, Appeals and Refunds

¶ 33. Where an assessment has been received by a predecessor corporation prior to amalgamation and

- (a) the predecessor corporation has filed a notice of objection prior to amalgamation, the new corporation will possess the rights consequent upon the filing of a notice of objection and will be able to appeal to the Tax Court of Canada within the time limits set out in section 169, or
- (b) the predecessor corporation has commenced an appeal prior to amalgamation, the new corporation will be able to continue the appeal.

¶ 34. Where an assessment or reassessment of a predecessor corporation is to be made after amalgamation, the assessment (or reassessment) will usually be issued to the new corporation which will have the same rights as the predecessor corporation to file a notice of objection and to appeal the assessment (or reassessment). However, where the governing corporate law considers the new corporation formed on an amalgamation to be a continuation of the predecessor corporations, an assessment or reassessment issued in the name of the predecessor corporation is valid and enforceable against the new corporation (see *The Queen v.*

Guaranty Properties Limited and Forest Glenn (Dixie) Limited, 90 DTC 6363, [1990] 2 CTC 94 (F.C.A.).

Refunds of tax paid by a predecessor corporation to be made after the amalgamation will usually be issued to the new corporation.

Canada Pension Plan and *Employment Insurance Act*

¶ 35. A statutory amalgamation under the laws of Canada or any of the provinces does not result in the new corporation being a new employer for the purposes of the Canada Pension Plan or the *Employment Insurance Act*. Therefore, where there has been such an amalgamation at some point in the calendar year, contributions by employees and by predecessor corporations before the amalgamation should be taken into account in determining the required contribution to be made after the amalgamation. For instance, where the year's maximum contribution for an employee had been made prior to the amalgamation by both the employee and the predecessor employer corporation, the new company will not be required to make further contributions for that employee.

RULES RESPECTING SHAREHOLDERS, OPTION HOLDERS AND CREDITORS

Shares of Predecessor Corporations

¶ 36. Subparagraph (b)(iii) of the definition of "disposition" in subsection 248(1) provides that any share owned by a taxpayer which is converted by virtue of an amalgamation or merger constitutes a disposition. However, subsection 87(4) provides a rollover to a shareholder (except any other predecessor corporation) of a predecessor corporation on an amalgamation provided that

- (a) the shares of the predecessor corporation were capital property to the shareholder; and
- (b) no consideration, other than shares of the new corporation, was received by the shareholder for the disposition of the shares of the predecessor corporation on the amalgamation.

The rollover provided in subsection 87(4) will not be denied to a shareholder merely because the shareholder receives cash or other consideration in lieu of a fraction of a share of the new corporation.

¶ 37. Where a taxpayer receives any non-share consideration, in lieu of a fraction of a share of the new corporation, the total amount or value of which does not exceed \$200, the taxpayer may choose either

- (a) to include the amount of any gain or loss from the disposition of its fractional share in the computation of its income; or
- (b) to ignore the computation of that gain or loss and reduce the adjusted cost base of the shares received on the amalgamation by that total amount or value.

However, where the total amount or value of any non-share consideration received exceeds \$200, the taxpayer must report, to the extent that total amount or value exceeds the paid-up capital of the fractional share that the taxpayer is entitled to receive on the amalgamation, a deemed dividend under subsection 84(3) and any gain or loss, as the case may be, from the disposition of its fractional share.

¶ 38. Under subsection 87(4), each shareholder of a predecessor corporation who holds shares of such corporation as capital property is deemed to have:

- (a) disposed of the shares of the predecessor corporation for proceeds equal to the shareholder's adjusted cost base of those shares immediately before the amalgamation, and
- (b) acquired shares of a class of the new corporation at a cost equal to the proportion of the proceeds determined above that the fair market value, immediately after the amalgamation, of that class of shares of the new corporation acquired by the taxpayer is of the fair market value, immediately after the amalgamation, of all shares of the new corporation acquired by the taxpayer.

The allocation of cost described in (b) above can result in a shift of adjusted cost base from one class of shares of a predecessor corporation to a different class of shares of the new corporation where the shareholder owned more than one class of shares of the predecessor corporation. For example, a shareholder might be in the following position:

Class of shares	ACB of shares in predecessor corporation	FMV of shares in new corporation	Cost of shares of new corporation under 87(4)
Preferred	\$1,000	\$ 1,000	\$ 110
Common	<u>100</u>	<u>9,000</u>	<u>990</u>
	<u>\$1,100</u>	<u>\$10,000</u>	<u>\$1,100</u>

However, in a situation such as that described above, it is the practice of the CRA not to apply paragraph 87(4)(b) to reallocate the adjusted cost base of the shares of the new corporation where:

- (c) the amalgamation agreement provides that the preferred and common shares of the predecessor corporation are to be converted into preferred and common shares, respectively, of the new corporation, or
- (d) for a short-form amalgamation, the issued shares of one of the predecessor corporations become shares of the new corporation under the relevant corporate legislation.

Consequently, the cost of the preferred and the common shares of the new corporation will be \$1,000 and \$100, respectively.

¶ 39. Where shares of a predecessor corporation are cancelled for no consideration pursuant to a horizontal short-form amalgamation, the adjusted cost base of such cancelled shares to the shareholder will be added to the cost of the common shares of the new corporation which are

deemed to have been received by the shareholder on the amalgamation.

¶ 40. Where the fair market value, immediately before an amalgamation, of the shares of a predecessor corporation owned by a shareholder (the particular shares) exceeds the fair market value, immediately after the amalgamation, of the shares of the new corporation received in exchange for the particular shares of the predecessor, and it is reasonable to regard some or all of the excess as a benefit that the shareholder desired to have conferred on a person related to the shareholder, paragraphs 87(4)(c) to (e) provide that:

- (a) the shareholder is deemed to have disposed of the particular shares of the predecessor corporation for proceeds equal to the lesser of:
 - the aggregate of the adjusted cost bases immediately before the amalgamation of the particular shares of the predecessor corporation plus the amount of the benefit conferred on the related person, and
 - the fair market value of the particular shares of the predecessor corporation immediately before the amalgamation,
- (b) the shareholder's capital loss otherwise determined on the disposition of the particular shares of the predecessor corporation is deemed to be nil,
- (c) subject to (d) below, the cost to the shareholder of the shares of the new corporation so received is deemed to be the lesser of:
 - the aggregate of the adjusted cost bases to the shareholder of the particular shares of the predecessor corporation immediately before the amalgamation, and
 - the aggregate of the fair market value, immediately after the amalgamation, of those shares of the new corporation and the amount that would have been the shareholder's capital loss otherwise determined had it not been deemed to be nil as in (b) above, and
- (d) where shares of more than one class of the new corporation are received by the shareholder on the amalgamation, the deemed acquisition cost determined in (c) above is allocated to the different classes on a pro-rata basis in the same manner as that described in ¶ 38(b).

¶ 41. Where one predecessor corporation holds shares of another predecessor corporation, the cancellation of those shares on the amalgamation will not normally give rise to a gain or loss in the hands of the former corporation. A capital gain may, however, arise by virtue of paragraph 87(11)(a) to an amalgamation described in ¶ 22 where the paid-up capital of the subsidiary's shares exceeds their adjusted cost base to the parent.

Shares Deemed to be Listed

¶ 42. In certain amalgamations, the shares of a predecessor corporation which were listed on a prescribed stock exchange

may be temporarily exchanged for shares of the new corporation which are not listed on a prescribed stock exchange. Subsection 87(10) deems such temporary shares to have been listed on a prescribed stock exchange provided that the new corporation is a public corporation and the temporary share is redeemed, acquired or cancelled within 60 days following the amalgamation. This deemed listing of the temporary shares of the new corporation is applicable for the purposes of determining whether such share is taxable Canadian property, excluded property for the purposes of section 116 and a qualified investment for certain registered plans.

Options to Acquire Shares of a Predecessor Corporation

¶ 43. Subsection 87(5) provides a tax-free rollover where a taxpayer (except any predecessor corporation) owned an option to acquire shares of a predecessor corporation as capital property and, on the amalgamation of the predecessor corporation with one or more other corporations, received no consideration other than an option to acquire shares of the new corporation. There is no requirement that the shares to be acquired under the exchanged option be similar to those covered by the original option. For example, an option to acquire common shares of the predecessor corporation may be exchanged for an option to acquire preferred shares of the new corporation. Where subsection 87(5) applies, the option holder is deemed to dispose of the old option for proceeds equal to its adjusted cost base and is deemed to have acquired the new option at a cost equal to those deemed proceeds. Where the old option was taxable Canadian property to the option holder, the new option will also be deemed to be taxable Canadian property.

Employee Stock Options

¶ 44. Subsection 87(5) does not apply where an employee holds rights under an agreement to acquire shares of a predecessor corporation and subsection 7(1) is applicable to such right because the right will not constitute capital property of the employee. However, by virtue of subsection 7(1.4), no benefit arises under paragraph 7(1)(b) when such a right is exchanged by the employee for a right to acquire a share of the new corporation or of a corporation with which the new corporation does not deal at arm's length provided that the fair market value of the new option does not exceed the fair market value of the old option.

Non-resident Shareholders

¶ 45. By virtue of subsection 87(4), where the old shares were taxable Canadian property of a shareholder, the new shares are deemed to be taxable Canadian property of the shareholder. For this reason, it is the Agency's view that a non-resident holder of shares of a predecessor corporation which constitute taxable Canadian property need not comply with the procedures set out in section 116 in respect of the

deemed disposition of the old shares on an amalgamation to which subsection 87(4) is applicable.

Paid-Up Capital

¶ 46. On an amalgamation or merger of two or more Canadian corporations, subsection 87(3) ensures that the aggregate paid-up capital of the issued shares of the amalgamated corporation will not exceed the aggregate paid-up capital of the issued shares of all predecessor corporations (excluding that of any shares held in one predecessor corporation by any other predecessor corporation) immediately before the amalgamation or merger. Subsection 87(3) would apply, for example, where the paid-up capital for tax purposes of the issued shares of a predecessor corporation is lower than their issued capital for corporate purposes because of the previous operation of one or more of the provisions referred to in subparagraph (b)(iii) of the definition of paid-up capital in subsection 89(1). Where subsection 87(3) applies, the paid-up capital reduction is pro rated amongst all of the outstanding classes of shares of the new corporation in proportion to their aggregate paid-up capital. Consequently, the provisions of section 84 will not apply to deem a dividend to have been paid or received where shares of a predecessor corporation are converted into shares of the new corporation on an amalgamation.

¶ 47. Although subsection 87(3) limits the aggregate paid-up capital of the issued shares of the amalgamated corporation, there is no specific provision which sets out how this aggregate paid-up capital is to be allocated to the issued shares of the new corporation. Where the streaming of paid-up capital to a specific class of shares of the amalgamated corporation has been done in order to accomplish a form of surplus strip, consideration will be given to the application of the general anti-avoidance rule.

¶ 48. The application of the averaging provisions in subsection 87(3) may lead to unintended consequences in certain situations. Consequently, subsection 87(3.1) permits the amalgamated corporation to elect not to have the provisions of subsection 87(3) apply where certain specified conditions are met. These conditions are that:

- (a) all of the issued shares of each class of shares (other than a class of shares all of the issued shares of which were cancelled on the amalgamation) of each predecessor corporation must be converted into a separate class of shares of the amalgamated corporation;
- (b) after the amalgamation, the number of shareholders of each class, their proportionate ownership of each class, the number of issued shares of each class, the issued capital of each class for corporate law purposes and the terms and conditions of each class of shares of the amalgamated corporation must be identical to those that existed for the particular class of shares of the predecessor corporation which were converted into that separate class of shares of the amalgamated corporation.

Where the amalgamated corporation meets these conditions and elects in its return of income for its first taxation year to have the provisions of subsection 87(3.1) apply, each class of shares of the amalgamated corporation will be deemed to be the same class as and a continuation of the specific class of shares of the predecessor corporation which were converted into that class of shares. Consequently, any paid-up capital reduction that applied to the specific class of shares of the predecessor corporation would flow through to the particular class of shares of the amalgamated corporation.

¶ 49. In the case of a vertical or horizontal short-form amalgamation, the CRA considers that the shares of the predecessor corporation which are not cancelled on the amalgamation have been converted into shares of the amalgamated corporation for the purposes of subsection 87(3.1).

¶ 50. On a triangular amalgamation of two or more taxable Canadian corporations, paragraph 87(9)(b) ensures that the aggregate paid-up capital of the issued shares of the parent corporation (see ¶ 8) will not exceed the aggregate paid-up capital of the issued shares of the parent and each predecessor corporation (excluding that of any shares held in a predecessor corporation by the parent, by any other predecessor corporation and by any other person where such shares were not exchanged for shares of the parent on the amalgamation) immediately before the amalgamation or merger. Where shares of more than one class of the parent are issued on the amalgamation, any paid-up capital reduction is pro rated amongst all of such classes of shares of the parent in proportion to their aggregate paid-up capital.

Debt Settlement on Amalgamation

¶ 51. Subsection 80.01(3) applies to an obligation (including a distress preferred share) owed by one predecessor corporation to another where that obligation is extinguished or cancelled on an amalgamation. The obligation is deemed to have been settled by a payment made and received before the amalgamation of an amount equal to the cost amount to the creditor of the obligation. For the purposes of subsection 80.01(3), the cost amount of the obligation is to be determined as if:

- (a) the definition of cost amount in subsection 248(1) is read without reference to paragraph (e) thereof; and
- (b) any amounts of unpaid interest relating to the obligation that have been included in the creditor's income are included in the obligation's cost amount provided that the creditor has not claimed a deduction for bad debts in respect of that amount of interest.

This may result in a forgiven amount for an obligation extinguished on an amalgamation where the obligation had been purchased by the creditor from a third party for an amount less than both its principal or redemption amount and the amount for which it was originally issued by the debtor.

Reserves of Creditors

¶ 52. A person entitled to a reserve under paragraph 20(1)(n), subparagraph 40(1)(a)(iii) or subparagraph 44(1)(e)(iii) in respect of an amount not yet due from a predecessor corporation will not become disentitled to the reserve by virtue of the amount becoming an obligation of the new corporation on the amalgamation.

Non-Resident Creditors

¶ 53. Where a non-resident person is exempt from Part XIII tax on interest payable on an obligation by a predecessor corporation by virtue of subparagraph 212(1)(b)(vii) and where subsection 87(7) is applicable to the obligation, the non-resident person will continue to be exempt from such tax provided that the conditions set out in subparagraph 212(1)(b)(vii) continue to be met.

Expenses of Amalgamation

¶ 54. Expenses, such as legal fees, accounting fees, and other similar expenses, incurred in connection with an amalgamation (or a proposed amalgamation which is not completed) of two or more corporations are "eligible capital expenditures" provided they meet the requirements of that definition in subsection 14(5) as explained in the current version of IT-143, *Meaning of Eligible Capital Expenditure*.

Anti-Avoidance Rules

¶ 55. Subsection 69(11) is an anti-avoidance provision which may apply, in certain circumstances, to deny a tax-deferred rollover under subsection 87(1). Where it applies, the predecessor corporation will be deemed to have disposed of the property for proceeds equal to its fair market value immediately before the amalgamation. Subsection 69(11) will apply where as part of a series of transactions a taxpayer disposes of property on a tax-deferred basis and it may reasonably be considered that one of the main purposes of the series is to obtain the benefit of a tax deduction or other entitlement (including tax exempt status) which is available to a person who is not affiliated with the taxpayer in respect of a subsequent disposition of the property. In the case of an amalgamation or merger, there may not technically be a disposition of property from a predecessor corporation to the new corporation. Accordingly, subsection 69(13) deems the property of a predecessor corporation as having been disposed of immediately before the amalgamation or merger at its cost amount for the purposes of determining whether subsection 69(11) applies to the amalgamation or merger. The expression "affiliated person" is defined in subsection 251.1(1) except that, for the purposes of subsection 69(11), the affiliated person rules are to be read without the extended definition of control found in subsection 256(5.1). In other words, only *de jure* control is considered.

¶ 56. The current version of Information Circular 88-2, *General Anti-Avoidance Rule*, and Supplement 1 to it also

discuss a number of examples which illustrate the use of subsection 87(1) and comments on the application of subsection 245(2). These examples include *Change of Fiscal Periods*, *Redemption of Preferred Shares Following an Amalgamation* and *Shift of Paid-Up Capital to Preferred Shares Created on an Amalgamation to give Capital Gains to Preferred Shareholder on Redemption*.

References to Other Bulletins

¶ 57. Various points relevant to amalgamations but not discussed in this bulletin can be found in the current versions of the following interpretation bulletins:

- IT-66 *Capital Dividends*
- IT-121 *Election to Capitalize Cost of Borrowed Money*
- IT-125 *Dispositions of Resource Properties*
- IT-151 *Scientific Research and Experimental Development Expenditures*
- IT-154 *Special Reserves*
- IT-259 *Exchange of Property*
- IT-302 *Losses of a Corporation – The Effect That Acquisitions of Control, Amalgamations and Windings-Up Have on their Deductibility – After January 15, 1987*
- IT-330 *Disposition of Capital Property Subject to Warranty, Covenant, or Other Conditional or Contingent Obligations*
- IT-417 *Prepaid Expenses and Deferred Charges*
- IT-427 *Livestock of Farmers*
- IT-428 *Wage Loss Replacement Plans*
- IT-463 *Paid Up Capital*
- IT-502 *Employee Benefit Plans and Employee Trusts*
- IT-512 *Determination and Redetermination of Losses*
- IT-520 *Unused Foreign Tax Credits – Carryforward and Carryback*
- IT-533 *Interest Deductibility and Related Issues*

Explanation of Changes

Introduction

The purpose of the *Explanation of Changes* is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised interpretations of the CRA.

Reasons for the Revision

We have revised this bulletin to incorporate new interpretations, to clarify existing positions and to reflect amendments to section 87 of the *Income Tax Act*.

Legislative and Other Changes

¶ 2 (former ¶ 4) has been revised to reflect the amendment to paragraph 87(1)(c) enacted by S.C. 1994, c.7, Schedule VIII, s. 37(1) applicable to amalgamations occurring after 1989. This amendment was made to ensure that only those shareholders who own shares of a predecessor corporation must receive shares of the amalgamated corporation on the merger for it to satisfy the condition in paragraph 87(1)(c).

New ¶ 3 defines a “taxable Canadian corporation”.

¶ 5 (former ¶ 8) has been revised to include the CRA’s position described in paragraph 28 of Information Circular 88-2 that subsection 245(2) will ordinarily not be applied where an amalgamation is undertaken to squeeze out minority shareholders and the redeemable preferred shares received by the minority shareholders are redeemed shortly after the amalgamation.

New ¶ 6 has been added to describe in further detail the amendment to paragraph 87(1)(c) referred to in ¶ 2.

¶ 7 has been revised to include the CRA’s position described in former ¶ 48.

New ¶ 9 has been added to describe the addition to the cost of the parent corporation’s shares in the amalgamated corporation following a triangular amalgamation.

New ¶ 11 has been added to describe the CRA’s position that, in certain circumstances, there will only be one year end for a predecessor corporation control of which has been acquired immediately prior to it undergoing an amalgamation.

New ¶ 12 has been added to clarify that there will be multiple taxation year ends for a predecessor corporation which undergoes several successive amalgamations.

New ¶ 14 has been added to explain that generally for the purposes of computing the income of the new corporation, it will be considered as the same corporation as and a continuation of the predecessor corporations. Consequently, most tax attributes of the predecessor corporations will flow

through to the new corporation. Therefore, much of the discussion contained in the former bulletin relating to the flow-through of tax attributes has been deleted.

New ¶s 16 and 17 have been added to clarify certain issues relating to the valuation of the new corporation’s inventory and that the new corporation can choose a method of inventory valuation which is different from that of the predecessor corporations.

¶ 18 (former ¶ 14) has been revised to reflect the revocation of former paragraph 1100(2.2)(c) of the Regulations by P.C. 1989-2464, SOR/90-22 dated December 14, 1989, generally applicable to property acquired after June 17, 1987. This ¶ 18 also describes the circumstances where the new corporation will be considered to be related to one or more of the predecessor corporations.

¶ 19 (former ¶ 15) has been revised to reflect the revocation of former paragraph 1102(14)(b) of the Regulations by P.C. 1989-2464, SOR/90-22 dated December 14, 1989, generally applicable to property acquired after June 17, 1987.

New ¶ 20 has been added to describe the anti-avoidance rule which may apply if steps are taken to make the new corporation related to one of its predecessor corporations so that subsection 1100(2.2) or 1102(14) of the Regulations apply to an amalgamation.

New ¶ 22 has been added to describe the addition to the cost of certain non-depreciable capital property which may be available under subsection 87(11) when a parent corporation amalgamates with its wholly-owned subsidiary. Subsection 87(11) was enacted by S.C. 1998, c. 19, s. 117(13) generally applicable to amalgamations that occur after 1994.

New ¶ 23 has been added to discuss paragraph 87(2)(e.1) which was enacted by S.C. 1987, c. 46, s. 29(2), applicable to amalgamations occurring after January 15, 1987.

New ¶ 24 has been added to discuss subsection 100(2.1) which was enacted by S.C. 1987, c.46, s. 34(1), applicable to amalgamations occurring after January 15, 1987.

¶ 26 (former ¶ 19) has been revised to reflect the enactment of paragraph 87(2)(j.6) by S.C. 1986, c. 6, s. 46(1).

New ¶ 29 has been added to discuss the circumstances where an amalgamation may result in an acquisition of control under paragraph 256(7)(b) as amended by S.C. 1998, c. 19, s. 246(4) which is generally applicable to amalgamations occurring after April 26, 1995.

New ¶ 30 has been added to discuss subsection 87(2.11) that was enacted by S.C. 1994, c. 7, Schedule VIII, s. 37(9), applicable to amalgamations occurring after 1989. It was subsequently amended by S.C. 1998, c. 19, s. 117(11), applicable to amalgamations occurring after April 26, 1995.

New ¶ 32 has been added to describe the CRA's views on the filing of elections where a party to a subsection 85(1) rollover has undergone an amalgamation.

¶ 34 (former ¶ 35) has been revised as a result of the decision in *The Queen v. Guaranty Properties Limited and Forest Glenn (Dixie) Limited*, 90 DTC 6363, [1990] 2 CTC 94 (FCA).

¶ 35 (former ¶ 37) has been revised to include a reference to *the Employment Insurance Act*.

¶ 36 (former ¶ 38) has been revised to reflect moving the definition of the term "disposition" to subsection 248(1) as enacted by S.C. 2001, c. 17, s. 188(5).

¶ 37 (former ¶ 39) has been revised to reflect the CRA's administrative position that where a taxpayer receives any non-share consideration that exceeds \$200, in lieu of the taxpayer's fractional share of the new corporation on an amalgamation, it must now report a deemed dividend under subsection 84(3), to the extent that non-share consideration exceeds the paid-up capital of its fractional share, and any gain or loss, as the case may be, from the disposition of its fractional share. However, the CRA's administrative position that deals with any non-share consideration that a taxpayer receives that does not exceed \$200 has been carried forward from ¶ 39 of IT-474R.

¶ 38 (former ¶ 40) has been revised to reflect that the administrative position described therein also applies to classes of shares converted on a vertical amalgamation.

New ¶ 39 has been added to describe the CRA's position which permits a shareholder to add to the adjusted cost base of the shareholder's shares in the new corporation, the adjusted cost base of any shares of a predecessor corporation which the shareholder owned and which were cancelled for no consideration as part of a horizontal short-form amalgamation.

¶ 41 (former ¶ 42) has been revised to clarify that a capital gain may arise by virtue of paragraph 87(11)(a) to an amalgamation where the paid-up capital of the subsidiary's shares exceeds their adjusted cost base to the parent.

New ¶ 42 has been added to describe when certain temporary shares issued by a public corporation will be deemed to have been listed on a prescribed stock exchange.

New ¶ 43 and 44 have been added to describe the rollovers available for options and employee share options.

¶ 46 (former 51) has been revised to clarify the CRA's position described in former ¶ 52 that section 84 will not deem a dividend to have been paid or received where shares of a predecessor corporation are converted into shares of the new corporation on an amalgamation.

¶ 47 (former ¶ 52) has been revised to reflect the CRA's position that subsection 245(2) may apply where an amalgamation is used to stream paid-up capital to a certain class of shares to facilitate a surplus strip.

New ¶s 48 and 49 have been added to describe the election available under subsection 87(3.1) as enacted by S.C. 1994, c. 7, Schedule VIII, s. 37(11), applicable to amalgamations occurring after 1990.

New ¶ 50 has been added to describe the paid-up capital reduction found in paragraph 87(9)(b).

¶ 51 (former ¶ 56) has been revised to reflect amendments to the debt forgiveness rules enacted by S.C. 1995, c. 21, which apply generally to taxation years ending after February 21, 1994.

¶ 53 (former ¶ 58) has been revised to reflect the additions of clause 212(1)(b)(vii)(E) by S.C. 1986, c. 55, s. 74(2), applicable with respect to interest paid or credited after December 19, 1986, and clause 212(1)(b)(vii)(F) by S.C. 1994, c. 7, Schedule VIII, s. 123(2) applicable to amounts paid or credited after 1991.

New ¶ 55 adds some remarks concerning the anti-avoidance rule in subsection 69(11).

New ¶ 56 includes a reference to relevant examples described in Information Circular 88-2 and Supplement 1 to it.

¶ 57 (former ¶ 3) has been revised to update the list of relevant interpretation bulletins.

Throughout the bulletin, we have revised some of the wording in order to improve readability without altering the substance.