# Office of the Commissioner for Federal Judicial Affairs Canada

2019-20

**Departmental Plan** 

The Honourable David Lametti, P.C., M.P. Minister of Justice and Attorney General of Canada

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# Commissioner's message

I am pleased to present the 2019-20 Departmental Plan for the Office of the Commissioner for Federal Judicial Affairs (FJA). This Plan provides parliamentarians and Canadians with information on what we do and the results that we endeavour to achieve in the upcoming year.

FJA strives to safeguard the independence of the judiciary through various means, including its administration of Part I of the *Judges Act*. We will continue in the coming year to provide core services to the more than 1,100 federally appointed judges, as well as other services including: language training to judges, the coordination of international cooperation initiatives involving the judiciary, and the publication of decisions of the Federal Court of Appeal and the Federal Court. We will also assist the Canadian Judicial Council (CJC) in the carrying out of its operations.

Over the past few years, FJA has been entrusted to undertake responsibility for a number of initiatives in support of priorities of the Government and the Minister of Justice. We have embraced these increased responsibilities and will continue to do so in the coming year.

We will continue to support the recently reformed judicial appointments process on behalf of the Minister of Justice, a key function of our office. This includes maintaining the list of judicial vacancies for all superior courts across Canada, and administering the Judicial Advisory Committees that assess candidates for federal judicial appointment. As the terms of the members of all 17 committees come to expiration in the coming year, we will provide the necessary training and orientation for newly appointed members as early as possible.

Further to the Government of Canada's Action Plan for Official Languages, we will, amongst other things, continue to conduct assessments and verification of the language proficiency level of some candidates who self-identify as bilingual.

While there is currently no indication of an impending vacancy on the Supreme Court of Canada in the coming year, we stand ready to assist the Minister and Prime Minister in supporting the Independent Advisory Board for the Supreme Court of Canada Judicial Appointments, in the event a vacancy arises.

In anticipation of the passing into law of *An Act to amend the Access to Information Act and the Privacy Act*, we will focus our attention on meeting the needs of Canadians for increased transparency and accountability, while ensuring and safeguarding respect for judicial independence. We will also stand ready to implement another Bill which would require education in the area of sexual assault law for all candidates who apply to become judges. While these Bills are still before Parliament, we continue in our consultations and follow-up activities in preparation for their coming into effect.

Our team at FJA is committed to the work we do and is prepared to undertake the new challenges ahead for the upcoming year. I invite you to read our departmental plan to learn more about our plans and priorities for 2019-20.

Marc A. Giroux Commissioner

# Plans at a glance and operating context

#### Open and transparent government

Bill C-58, An Act to amend the Access to Information and the Privacy Act and to make consequential amendments to other Acts, received its first reading in the House of Commons on June 19, 2017. This new legislation would, amongst other things, require the proactive publication of certain information on expenses reimbursed to federally appointed judges under their incidental, representational, travel and conference allowances. Since this time, FJA in preparation for the Act coming into effect has undertaken a needs assessment analysis to determine the resources and effort required for compliance with these requirements. As such we will focus efforts on creating the necessary infrastructure, policies and platforms to comply with the reporting requirements. Preparations will result in changes and reconfigurations in information technology, financial systems and training of personnel in adapting to a new methodology of recording and reporting.

#### **Judicial Appointment Committees**

Over the course of 2019, all Judicial Advisory Committees will expire, resulting in the appointment of new members to each of the seventeen (17) committees. In addition to an ex officio non-voting representative from the Office of the Commissioner Federal Judicial Affairs, each committee is comprised of seven (7) members. It is the responsibility of the Commissioner in administering the judicial appointments process on behalf of the government to ensure that committee members undergo training and orientation in understanding their roles and responsibilities in assessing and creating a pool of candidates that is gender-balanced and reflective of the diversity of each jurisdiction.

In October 2016 the appointments process was updated. Applications submitted and assessed in that year are eligible for a two (2) year period. As a result, we anticipate an increased level of applications of both first time applicants and those who were previously included in the pool of candidates available for appointment but for whom their eligibility has expired.

For more information on FJA's plans, priorities and planned results, see the "Planned results" section of this report.

2019-20	Departmental	Plan
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# Planned results: what we want to achieve this year and beyond

Core Responsibility

#### Support to federally appointed judges

#### **Description**

To provide services and support to the federal judiciary in a manner which contributes to the independence of the judiciary and the confidence of Canadians in our judicial system.

#### **Planning highlights**

The government has committed to transparent, merit-based appointments, to help ensure gender parity and that Indigenous Canadians and minority groups are better represented in positions of leadership. In 2019-20, FJA will continue to support the government's objectives related to judicial appointments to increase the effectiveness and independence of the judicial advisory committees, increase public confidence in the judicial advisory committees, increase transparency and rigour in all of the process, as well as, promote diversity.

The membership of all 17 committees will expire over the course of the coming year. In addition, the eligibility of candidates who applied under the updated process of October 2016 and were assessed and included in the pool of candidates available for appointments will also expire over the coming year. We anticipate an increase in applications as, in addition to new applicants, the previously assessed candidates are required to reapply should they have continued interest in eligibility for appointment.

The Office of the Commissioner will strive to ensure that our efforts and resources contribute to the maintenance of an efficient judicial appointments process to advance the government's effort in protecting the role that a strong and impartial judiciary plays within a healthy and vibrant democracy.

FJA will continue to promote and support transparency and rigour, through the collection (based on the voluntary self-identification and disclosure of candidates) and publication of statistics and demographic information on judicial applicants and appointees.

In anticipation of Bill C-58 – An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts – receiving royal assent, FJA will continue to strategically plan for resources in order to be compliant with the requirements for proactive disclosure of expenses incurred by a judge for their Incidental, Representational, Travel and Conference Allowances.

The Canadian Judicial Council's Statement of Principles on International Judicial Activities specifically spells out a role for FJA to provide valuable information on the availability of cultural and other education programs, and provide security and other information about a given country hosting a judge. Canadian judges are increasingly informing FJA of their international activities and coming to FJA for information, assistance, vetting, and support on a range of international judicial reform matters. Federally appointed judges in Canada may benefit from a single secretariat in order to provide them with informational, logistical, administrative and other types of support to engage in international capacity-building activities in respect of rule of law, including as it relates to judicial independence, and gender equity. This role is currently and increasingly being played by FJA's International Programs Division. In addition, the International Programs Division under an MOU with the Ontario Superior Court and as a service to other courts, including the four federal courts in Ottawa, vets incoming international delegations and institutions who request meetings and programs of visit with judges, courts, administrators and institutions in Canada.

The Canadian Judicial Council Office (CJC), under the direction of the 40 Chief Justices and Associate Chief Justices across Canada is supported by a Secretariat, comprised of ten employees. CJC works to maintain the confidence Canadians have in their judges by promoting efficiency and uniformity, and improving the quality of judicial services across the country. A key activity is administering the judicial conduct review process. In the period of a year, the CJC will receive and respond to over 600 letters from Canadians who have questions or concerns about the work of judges. Some of these questions are about judicial decisions and fall outside of Council's mandate. The rest are dealt with in accordance with Council's Complaints Procedures. The CJC will continue to work closely with Department of Justice officials to propose legislative changes to the Judges Act that may further enhance efficiency and transparency.

# Planned results

Departmental Results	Departmental Result Indicators		Date to achieve target	2015–16 Actual results	2016–17 Actual results	2017–18 Actual results
Federally- appointed judges are provided with centralized services in a timely and effective manner	% of judges' allowances processed within the 10 day service standard	Equal to or greater than 90% of judges' allowances processed within the 10 day service standard	March 2020	Over 90% of judges' allowances were processed within the 10 day service standard	Over 90% of judges' allowances were processed within the 10 day service standard	Over 90% of judges' allowances were processed within the 10 day service standard
The judicial appointments process is managed efficiently	% of candidate applications ready to be evaluated within 3 months of reception	100% of candidate applications are ready to be evaluated within 3 months of reception	March 2020	Over 95% of applications were screened and ready to be evaluated by Committees within 3 months of reception	Over 95% of applications were screened and ready to be evaluated by Committees within 3 months of reception	Over 95% of applications were screened and ready to be evaluated by Committees within 3 months of reception
The judicial conduct review process is completed in a timely and effective manner	% of complaints reviewed within six months	Equal to or greater than 80% of complaints reviewed within six months	March 2020	80% of complaints were reviewed within six months	80% of complaints were reviewed within six months	80% of complaints were reviewed within six months
CJC ensures that federally- appointed judges have access to relevant training and learning opportunities	% of judges who reported to the CJC that their training and learning needs were met	Equal to or greater than 90% of judges training and learning needs were met	March 2020	Not available*	Not available*	Not available*

<sup>\*</sup>This is a new indicator effective fiscal year 2018-19.

# Budgetary financial resources (dollars)

			2021–22 Planned spending
614,659,819	614,659,819	629,154,976	646,122,474

#### Human resources (full-time equivalents)

		2021–22 Planned full-time equivalents
60.5	60.5	60.5

Supporting information on planned expenditures, human resources, and results related to FJA's Program Inventory is available in the GC InfoBase.<sup>i</sup>

#### **Internal Services**

#### **Description**

Internal Services are those groups of related activities and resources that the federal government considers to be services in support of programs and/or required to meet corporate obligations of an organization. Internal Services refers to the activities and resources of the 10 distinct service categories that support Program delivery in the organization, regardless of the Internal Services delivery model in a department. The 10 service categories are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Management Services; Materiel Management Services; and Acquisition Management Services.

Budgetary financial resources (dollars)

- 1				2021–22 Planned spending
	726,800	726,800	726,800	726,800

Human resources (full-time equivalents)

		2021–22 Planned full-time equivalents
5.5	5.5	5.5

#### Planning highlights

FJA will strive to meet the expectations of managers and employees with respect to human resources, financial management, procurement, information technology and information management. Employee satisfaction will be measured through the Public Service Employee Survey. Service responsiveness will be monitored through the achievement of service standards. The main improvement areas to be pursued during 2019-20 are all closely related to overall FJA priorities.

**Financial control framework.** Monitor processes, controls and practices to ensure consistent and proper application of policies and administration of payments and allowances to judges. Identify enhancements required to existing monitoring mechanisms.

**Policy on internal controls.** Provide assurance that FJA adheres to the TBS Policy on Internal Controls through an effective system of internal controls to mitigate risks and support financial reporting. Review, document and assess internal financial controls, including processes, risks, key controls in place, the effectiveness of the controls, and testing required.

**Information management.** Continue supporting and modernizing the processes and tools used to manage FJA's physical and electronic information holdings. In 2019-20, this will include a review of and follow-up actions on the Office's overall information architecture to ensure adherence to best practices.

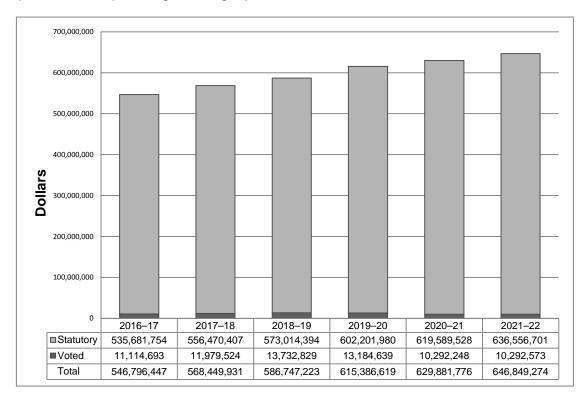
**Information Technology.** In compliance with Government of Canada requirements, FJA will continue modernizing and upgrading its IT infrastructure, systems, and assets in a manner as to ensure easy, reliable, and secure access to information by all members of the Office.

**Succession planning.** The principal human resources risk facing FJA is the loss of expertise and corporate memory from the retirement of experienced staff, and the lack of in-house expertise and back up in specialized areas. FJA will continue to do succession and HR planning to mitigate this risk.

# Spending and human resources

# Planned spending

#### Departmental spending trend graph



Budgetary planning summary for Core Responsibilities and Internal Services (dollars)

Core Responsibilities and Internal Services	2016–17 Expenditures	2017–18 Expenditures	2018–19 Forecast spending	2019–20 Main Estimates	2019–20 Planned spending	2020–21 Planned spending	2021–22 Planned spending
Support to federally appointed judges	546,069,647	567,723,131	586,020,423	614,659,819	614,659,819	629,154,976	646,122,474
Subtotal	546,069,647	567,723,131	586,020,423	614,659,819	614,659,819	629,154,976	646,122,474
Internal Services	726,800	726,800	726,800	726,800	726,800	726,800	726,800
Total	546,796,447	568,449,931	586,747,223	615,386,619	615,386,619	629,881,776	646,849,274

Variances between the actual spending for 2017-18 and the forecasted spending for 2018-19 are largely attributable to increases resulting from annual adjustments to judges' salaries based on the Industrial Aggregate, as well as, an increase in the number of pensioners receiving benefits under the Judges Act.

# Planned human resources

Human resources planning summary for Core Responsibilities and Internal Services (full-time equivalents)

Core Responsibilities and Internal Services		2017–18 Actual	2018–19 Forecast		2020–21 Planned	2021–22 Planned
Support to federally appointed judges	57.5	57.5	60.5	60.5	60.5	60.5
Subtotal	57.5	57.5	60.5	60.5	60.5	60.5
Internal Services	5.5	5.5	5.5	5.5	5.5	5.5
Total	63	63	66	66	66	66

# Estimates by vote

For information on FJA's organizational appropriations, consult the 2019–20 Main Estimates.<sup>ii</sup>

# **Future-Oriented Condensed Statement of Operations**

The Future-Oriented Condensed Statement of Operations provides a general overview of FJA's operations. The forecast of financial information on expenses and revenues is prepared on an accrual accounting basis to strengthen accountability and to improve transparency and financial management.

Because the Future-Oriented Condensed Statement of Operations is prepared on an accrual accounting basis, and the forecast and planned spending amounts presented in other sections of the Departmental Plan are prepared on an expenditure basis, amounts may differ.

A more detailed Future-Oriented Statement of Operations and associated notes, including a reconciliation of the net cost of operations to the requested authorities, are available on FJA's website<sup>iii</sup>.

Future-Oriented Condensed Statement of Operations for the year ended March 31, 2020 (dollars)

Financial information	2018–19 Forecast results	2019–20 Planned results	Difference (2019–20 Planned results minus 2018–19 Forecast results)
Total expenses	585,246,000	617,285,000	32,039,000
Total revenues	16,214,000	16,214,000	-
Net cost of operations before government funding and transfers	569,032,000	601,071,000	32,039,000

In 2018-19, total expenses include \$572.1million for judges' salaries, allowances, and annuities; \$9.6 million for FJA personnel and operating costs; and \$2.8 million for CJC personnel and operating costs. The 2019-20 amounts are \$601.3 million, \$10.7 million, and \$4.6 million, respectively.

Total revenues include an amount of \$16 million charged to FJA's statutory vote for judges' pension contributions.

#### Additional information

# Corporate information

# Organizational profile

**Appropriate minister:** The Honourable David Lametti, P.C., M.P.

Institutional head: Marc A. Giroux, Commissioner

Ministerial portfolio: Minister of Justice and Attorney General of Canada

**Enabling instrument: Judges Act**<sup>iv</sup> (R.S.C., 1985, c. J-1)

**Year of incorporation / commencement:** 1978

Other: Information about the Canadian Judicial Council, its mandate and programs are found at

the Council's website: http://www.cjc-ccm.gc.ca<sup>v</sup>

#### Raison d'être, mandate and role: who we are and what we do

"Raison d'être, mandate and role: who we are and what we do" is available on the FJA's website.

# **Reporting framework**

FJA's Departmental Results Framework and Program Inventory of record for 2019–20 are shown below:

	Core Responsibility 1: Support to federally appointed judges			
Departmental Results Framework	Departmental Result: Federally-appointed judges are provided with centralized services in a timely and effective manner	Indicator: % of judges' allowances processed within the 10 day service standard		
I Results	<b>Departmental Result:</b> The judicial appointments process is managed efficiently	<b>Indicator:</b> % of candidate applications ready to be evaluated within 3 months of reception	Internal Services	
partmenta	Departmental Result: The judicial conduct review process is completed in a timely and effective manner	<b>Indicator:</b> % of complaints reviewed within six months		
De	Departmental Result: CJC ensures that federally-appointed judges have access to relevant training and learning opportunities	Indicator: % of judges who reported to the CJC that their training and learning needs were met		
Program Inventory	Program: Payments pursuant to the Judges Act			
	Program: Federal Judicial Affairs			
	Program: Canadian Judicial Council			

# Changes to the approved reporting framework since 2018–19

	Structure	2019-20	2018-19	Change	Rationale for change
CORE RESPONSIBILITY		Support to federally appointed judges	Administrative support to federally appointed judges	Title change	Note 1
	PROGRAM	Payments pursuant to the Judges Act	Payments pursuant to the Judges Act	No change	Not applicable
	PROGRAM	Federal Judicial Affairs	Federal Judicial Affairs	No change	Not applicable
	PROGRAM	Canadian Judicial Council	Canadian Judicial Council	No change	Not applicable

**Note 1** Better reflects the wider scope of the Office's mandate to support judges.

### Supporting information on the Program Inventory

Supporting information on planned expenditures, human resources, and results related to FJA's Program Inventory is available in the GC InfoBase. vi

# Supplementary information tables

The following supplementary information tables are available on FJA's website vii:

- Departmental Sustainable Development Strategy
- ▶ Gender-based Analysis Plus

#### Federal tax expenditures

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance Canada publishes cost estimates and projections for these measures each year in the Report on Federal Tax Expenditures. This report also provides detailed background information on tax expenditures, including descriptions, objectives, historical information and references to related federal spending programs. The tax measures presented in this report are the responsibility of the Minister of Finance.

#### Organizational contact information

Office of the Commissioner for Federal Judicial Affairs Canada 99 Metcalfe Street, 8<sup>th</sup> Floor Ottawa, Ontario K1A 1E3 Canada

Telephone: (613) 995-5140 Facsimile: (613) 995-5615 Email: info@fja-cmf.gc.ca

Web site: http://www.fja-cmf.gc.ca

# Appendix: definitions

#### appropriation (crédit)

Any authority of Parliament to pay money out of the Consolidated Revenue Fund.

#### budgetary expenditures (dépenses budgétaires)

Operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

#### **Core Responsibility (responsabilité essentielle)**

An enduring function or role performed by a department. The intentions of the department with respect to a Core Responsibility are reflected in one or more related Departmental Results that the department seeks to contribute to or influence.

#### Departmental Plan (plan ministériel)

A report on the plans and expected performance of appropriated departments over a three-year period. Departmental Plans are tabled in Parliament each spring.

#### Departmental Result (résultat ministériel)

Any change or changes that the department seeks to influence. A Departmental Result is often outside departments' immediate control, but it should be influenced by Program-level outcomes.

#### Departmental Result Indicator (indicateur de résultat ministériel)

A factor or variable that provides a valid and reliable means to measure or describe progress on a Departmental Result.

#### Departmental Results Framework (cadre ministériel des résultats)

The department's Core Responsibilities, Departmental Results and Departmental Result Indicators.

#### Departmental Results Report (rapport sur les résultats ministériels)

A report on the actual accomplishments against the plans, priorities and expected results set out in the corresponding Departmental Plan.

#### experimentation

Activities that seek to explore, test and compare the effects and impacts of policies, interventions and approaches, to inform evidence-based decision-making, by learning what works and what does not.

#### full-time equivalent (équivalent temps plein)

A measure of the extent to which an employee represents a full person-year charge against a departmental budget. Full-time equivalents are calculated as a ratio of assigned hours of work to scheduled hours of work. Scheduled hours of work are set out in collective agreements.

#### **Gender-based Analysis Plus (GBA+)**

An analytical process used to help identify the potential impacts of policies, programs and services on diverse groups of women, men and gender-diverse people. The "plus" acknowledges that GBA goes beyond sex and gender differences to consider multiple identity factors that intersect to make people who they are (such as race, ethnicity, religion, age, and mental or physical disability).

#### government-wide priorities (priorités pangouvernementales)

For the purpose of the 2018–19 Departmental Plan, government-wide priorities refers to those high-level themes outlining the government's agenda in the 2015 Speech from the Throne, namely: Growth for the Middle Class; Open and Transparent Government; A Clean Environment and a Strong Economy; Diversity is Canada's Strength; and Security and Opportunity.

#### horizontal initiative (initiative horizontale)

An initiative in which two or more federal organizations, through an approved funding agreement, work toward achieving clearly defined shared outcomes, and which has been designated (by Cabinet, a central agency, etc.) as a horizontal initiative for managing and reporting purposes.

#### non-budgetary expenditures (dépenses non budgétaires)

Net outlays and receipts related to loans, investments and advances, which change the composition of the financial assets of the Government of Canada.

#### performance (rendement)

What an organization did with its resources to achieve its results, how well those results compare to what the organization intended to achieve, and how well lessons learned have been identified.

#### performance indicator (indicateur de rendement)

A qualitative or quantitative means of measuring an output or outcome, with the intention of gauging the performance of an organization, program, policy or initiative respecting expected results.

#### performance reporting (production de rapports sur le rendement)

The process of communicating evidence-based performance information. Performance reporting supports decision making, accountability and transparency.

#### planned spending (dépenses prévues)

For Departmental Plans and Departmental Results Reports, planned spending refers to those amounts presented in the Main Estimates.

A department is expected to be aware of the authorities that it has sought and received. The determination of planned spending is a departmental responsibility, and departments must be able to defend the expenditure and accrual numbers presented in their Departmental Plans and Departmental Results Reports.

#### plan (plan)

The articulation of strategic choices, which provides information on how an organization intends to achieve its priorities and associated results. Generally a plan will explain the logic behind the strategies chosen and tend to focus on actions that lead up to the expected result.

#### priority (priorité)

A plan or project that an organization has chosen to focus and report on during the planning period. Priorities represent the things that are most important or what must be done first to support the achievement of the desired Departmental Results.

#### program (programme)

A group of related resource inputs and activities that are managed to meet specific needs and to achieve intended results and that are treated as a budgetary unit.

# Program Alignment Architecture (architecture d'alignement des programmes)<sup>1</sup>

A structured inventory of an organization's programs depicting the hierarchical relationship between programs and the Strategic Outcome(s) to which they contribute.

#### results (résultat)

An external consequence attributed, in part, to an organization, policy, program or initiative. Results are not within the control of a single organization, policy, program or initiative; instead they are within the area of the organization's influence.

#### statutory expenditures (dépenses législatives)

Expenditures that Parliament has approved through legislation other than appropriation acts. The legislation sets out the purpose of the expenditures and the terms and conditions under which they may be made.

<sup>1.</sup> Under the Policy on Results, the Program Alignment Architecture has been replaced by the Program Inventory.

#### Strategic Outcome (résultat stratégique)

A long-term and enduring benefit to Canadians that is linked to the organization's mandate, vision and core functions.

#### sunset program (programme temporisé)

A time-limited program that does not have an ongoing funding and policy authority. When the program is set to expire, a decision must be made whether to continue the program. In the case of a renewal, the decision specifies the scope, funding level and duration.

#### target (cible)

A measurable performance or success level that an organization, program or initiative plans to achieve within a specified time period. Targets can be either quantitative or qualitative.

#### voted expenditures (dépenses votées)

Expenditures that Parliament approves annually through an Appropriation Act. The Vote wording becomes the governing conditions under which these expenditures may be made.

# **Endnotes**

- i. GC InfoBase, https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start
- ii. 2017–18 Main Estimates, https://www.canada.ca/en/treasury-board-secretariat/services/planned-government-spending/government-expenditure-plan-main-estimates.html
- iii. FJA's website, http://www.fja-cmf.gc.ca/publications/future-prospectifs/index-eng.html
- iv. Judges Act, http://lois-laws.justice.gc.ca/eng/acts/J-1/index.html
- v. CJC's website, http://www.cjc-ccm.gc.ca
- vi. GC InfoBase, https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start
- vii. FJA's website, http://www.fja-cmf.gc.ca/publications/rpp/index-eng.html
- viii. Report on Federal Tax Expenditures, http://www.fin.gc.ca/purl/taxexp-eng.asp