

Defined Terms

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Defined Terms in the *Income Tax Act*

The ITA defines many terms and phrases, sometimes for purposes of the entire ITA and sometimes for the purpose of a specific provision. Just because a word or phrase may appear to not need a definition does not mean that the ITA hasn't defined the term. It is important, when reading a provision, to incorporate any definitions, so as to understand what the provisions really means.

The bulk of definitions are found in subsection 248(1).

Tax treaties (conventions) define some terms expressly, and where this occurs these definitions prevail over the ITA where they are inconsistent. Conversely, terms in tax conventions that are not expressly defined take their meaning from domestic fiscal law.

You may also have to refer to other enactments or even to tax treaties in certain cases. One enactment that you may regularly refer to is the [Interpretation Act](#), RSC 1985 c I-21, which applies to all Federal enactments (unless a contrary intention appears in the other federal statute), and contains defined terms and phrases that you may be relevant (it also provides other interpretative rules that may be relevant).

Its important to remember that tax law is a gloss that is laid upon other areas of law. When dealing with specific areas, the definitions found in other provisions (both federal and provincial), may affect the interpretation of words in the ITA. Note that there is some divergence in the case law as to whether provincial legislation (and definitions) can bind the federal crown (thus affect the ITA).

In tying the last two paragraph together, I draw your attention to section 15 of the [Interpretation Act](#) which reads:

15. (1) Definitions or rules of interpretation in an enactment apply to all the provisions of the enactment, including the provisions that contain those definitions or rules of interpretation.

(2) Where an enactment contains an interpretation section or provision, it shall be read and construed

(a) as being applicable only if a contrary intention does not appear; and

(b) as being applicable to all other enactments relating to the same subject-matter unless a contrary intention appears.

The effect of subsection 15(1) is that the definition of a word or term may expand its own definition, if that word or term is used in the definition itself.

The effect of paragraph 15(2)(a) is that despite a definition saying that it applies for purposes of the ITA or for specific purposes, one may always be able to argue that the definition does not apply to a specific provision if one can point to a contrary intention.

The effect of paragraph 15(2)(b) is two-fold. It extends the definitions found in the ITA to other federal enactments deal with the same subject matter, AND it imports definitions found in other federal enactments that deal with the same subject matter into the ITA (again unless a contrary intention is apparent).

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