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WEAK-CURRENCY BORROWING TRANSACTIONS

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In the late 1980s and early 1990s, a number of Canadian taxpayers entered into hedged weak-currency loans. These transactions were undertaken in an era when there was little legal authority to determine how such transactions would be taxed. This article reviews the principles that apply to hedged loans, and the effect of the Shell and CP cases on these principles. The article then examines the new weak-currency rules that Parliament introduced to counter the taxpayer’s victory in Shell. The article concludes by applying those rules to an example of a weak-currency transaction, based on an actual transaction that took place in 1989. Keywords: Borrowing; capital gains; foreign currency; hedging.

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