BUDGET 2012-2013

ADDITIONAL INFORMATION ON THE FISCAL MEASURES OF THE BUDGET

Finances Québec

Paper inside pages

This document is printed on completely recycled paper, made in Québec, contaning 100% post-consumer fibre and produced without elemental chlorine.

Cardboard Cover

Budget 2012-2013
Additional Information on the Fiscal Measures of the Budget

Legal deposit - Bibliothèque et Archives nationales du Québec
March 2012
ISBN 978-2-551-25193-3 (Print)
ISBN 978-2-550-64263-3 (PDF)

TABLE OF CONTENTS

1. MEASURES TO HELP SENIORS REMAIN IN THEIR HOME

Québec's demographic transformation is an incontrovertible fact. After Japan, Québec is projected to have the fastest rate of population aging in the world.

Aware of this phenomenon, the government has, for some time now, worked to adapt its services and develop several measures targeting seniors. To that end, the Action Strategy for the Elderly,[1] made public on February 20, 2007, included several measures and initiatives designed to increase the disposable income of seniors, help them remain in their home, adapt services and infrastructures to their needs, and enhance their position in society.

More recently, the government announced, in the inaugural address delivered on February 23, 2011, the development of the Growing Old at Home Policy, which seeks to offer, in each region of Québec, services adapted and designed to improve the living conditions for seniors opting to remain in their home, as well as implementing an integrated services plan for seniors needing most ongoing assistance and adapted care.

To support seniors experiencing a loss of autonomy in their desire to remain in their environment for as long as possible, with their informal networks of friends and relatives, the tax system provides for a refundable tax credit for home-support services for seniors, which was introduced in 2000.

This tax credit, which has been improved many times over the year, provides assistance to seniors age 70 or older who devote a part—often a substantial part—of their budget to paying for the home-support services they need.

Despite the range of services available to seniors experiencing a loss of autonomy, many would inevitably be placed in a facility were it not for the devotion of their loved ones.

To recognize the need for respite of informal caregivers who house a senior age 70 or older or who cohabit with a person unable to live alone, the tax system grants them a refundable tax credit. Informal caregivers who, in order to take a break and recoup, rely on specialized respite services can, in certain cases, receive an additional tax credit.

To the tax assistance intended to help seniors remain in their home, estimated at slightly more than $315 million in 2011, must be added the tax measures intended to increase the disposable income of seniors, which represent $529 million in 2011.[2]

---

1 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2007-2008 – Action Strategy for the Elderly: Improving their living environment and encouraging their participation*, February 2007, www.budget.finances.gouv.qc.ca/budget/2007-2008/en/pdf/Aines.pdf.

2 Essentially, to increase the disposable income of seniors, the tax system provides that seniors may avail themselves of a tax credit with respect to age and for retirement income, a mechanism for splitting retirement income between spouses, and the non-taxation of amounts received as a guaranteed income supplement or spouse's allowance under the *Old Age Security Act* (R.S.C., 1985, c. O-9).

To provide additional help for seniors to remain in their home, improvements will be made to the refundable tax credit for home-support services for seniors, as well as the refundable tax credit intended for the spouse of an individual unable to live alone, and two new measures will be introduced concerning expenses incurred in order to extend the period during which seniors can continue to live independently at home.

1.1 Improvement to the refundable tax credit for home-support services for seniors

The refundable tax credit for home-support services for seniors grants tax assistance to seniors age 70 or older in order to help them remain in their home, thereby avoiding or delaying their being placed in a facility of the public health and social services network.

This tax credit, which is subject to a reduction in the case of a family income exceeding $53 465 in 2012, is equal to 30% of the eligible expenses paid by a senior up to $15 600, or $21 600 if the senior is dependent, for certain recognized home-support services.

In general, the expenses eligible for the tax credit correspond to the amounts paid by a senior for recognized home-support services provided either by an entrepreneur[3] or by the senior’s own employee,[4] excluding the cost of food, beverages, materials or other property acquired by the senior in connection with the providing of the service.

For the purposes of the tax credit, recognized home-support services are personal support services and maintenance or supply services.

Personal support services are services provided to seniors that are essential to their remaining in their home or that allow them to remain in their home, while maintenance or supply services are services provided in respect of a dwelling or the land on which the dwelling is situated.[5]

---

3 In such a case, the eligible expenses correspond to the amounts paid for the services provided, including the goods and services tax and the Québec sales tax.

4 In such a case, the eligible expenses correspond to the remuneration paid to the employee for the services provided, as well as the employer contributions and the payroll management expenses attributable to the remuneration.

5 The dwelling in question must be the principal place of residence of the individual claiming the tax credit, and the individual or the individual’s spouse must be the owner, lessee or sublessee of the dwelling.

However, recognized home-support services do not include, in particular, services rendered or to be rendered by a member of a professional order governed by the *Professional Code*[6] where the provision of such services is regulated by the professional order (except for services rendered or to be rendered by a member of the Ordre des infirmières et infirmiers du Québec or the Ordre des infirmières et infirmiers auxiliaires du Québec), services related to construction or repair work, services requiring a particular qualification card, or services rendered or to be rendered within the public health and social services network to a person accommodated therein.

The following table presents the list of home-support services that are recognized for the purposes of the tax credit.

TABLE 1

Recognized home-support services

Personal support services	Maintenance or supply services
Personal care service to assist an individual with hygiene, dressing, eating and mobility or transfers, if the individual, because of his or her condition, does not have the autonomy required to care fully for himself or herself	Housekeeping service (e.g. housekeeping of living areas, maintenance of appliances, cleaning of rugs and upholstered furniture, and cleaning of air ducts, when they do not have to be dismantled)
Meal preparation(1) or meal delivery(2) service	Care of clothing and household linens(4)
Non-specialized supervision service (e.g. night supervision or companion sitting)	Everyday necessities supply service (e.g. a grocery delivery service)
Nursing service rendered by a member of the Ordre des infirmières et infirmiers du Québec or the Ordre des infirmières et infirmiers auxiliaires du Québec	Maintenance service consisting of minor maintenance work performed outside of a dwelling, including work to be performed ordinarily every year because of the change in seasons (e.g. grass cutting, cleaning of windows and gutters, chimney sweeping, snow removal, installation and removal of seasonal shelters)
Support service to enable an individual to fulfil his or her duties or civic obligations (e.g. accompanying the individual on outings, budget management and assistance in filling out forms other than a tax form(3))	
	Maintenance service consisting of minor maintenance work performed inside a building, where the work is related to a facility which, by reason of its nature or intended use, could have been located outside the building (e.g. a swimming pool)

(1) Where the cost of the service is not included in rent, namely, a service that consists in helping an individual prepare meals in a dwelling that is the individual's principal place of residence, or a meal preparation service provided by a community organization established and operated exclusively for non-profit purposes.
(2) A meal delivery service provided by a community organization established and operated exclusively for non-profit purposes.
(3) Unless it is a form to request advance payments of the tax credit.
(4) Does not include a service provided by an entrepreneur whose principal business consists in providing dry cleaning, laundering, pressing and related services, unless the service is provided on behalf of an individual, at the private seniors' residence where the individual lives.

6 R.S.Q., c. C-26.

When seniors rent a dwelling unit (room, studio or apartment) and the rent includes the cost of one or more recognized home-support services, the portion of the rent attributable to the services may constitute an expense eligible for the purposes of the tax credit.

Since 2008, any person who pays rent to live in a residence for the elderly[7] must determining the amount of the eligible expenses included in the rent by means of one of the three tables for determining expenses prepared for that purpose. No portion of the rent other than the portion so determined can be considered an expense eligible for the tax credit.

Briefly, these tables—prepared so as to bring them into line with the schedule to the lease produced by the Régie du logement du Québec to accompany the lease for a dwelling unit with services—assign a value to the various recognized home-support services offered by residences for the elderly and included in the rent. However, the aggregate of the values so attributed may not exceed 75% of the rent where the senior or the senior's spouse is dependent, or 65% in all other cases.

Seniors who pay rent to live in other types of rental buildings must determine the amount of the eligible expenses included in their rent by applying a rate of 5% to the portion of the monthly rent for which they are responsible,[8] up to a total rent of $600 per month.[9] No other portion of the rent aside from the portion so determined may be considered an expense eligible for the tax credit.

As a further measure to support seniors, the refundable tax credit for home-support services for seniors may, upon request, be paid by advance payments.

Because helping seniors remain in their homes is at the heart of the government's concerns, various changes will be made, as of January 1, 2013, to several parameters of the tax credit in order to improve the assistance it provides to seniors and more particularly to persons experiencing a loss of autonomy.

---

7 This expression is defined in the first paragraph of section 1029.8.61.1 of the *Taxation Act* (R.S.Q., c. I-3).

8 To take into account situations in which seniors live in a dwelling unit with their spouse but are not lessees, co-lessees or sublessees, various rules have been prescribed for determining the amount of the seniors' eligible expenses included in the rent for the dwelling unit they live in.

9 Except where a senior is the co-lessee of a dwelling unit solely with his or her spouse, the $600 amount must be divided by the number of co-lessees.

The following table gives an overview of the principal changes that will be made to the parameters of the refundable tax credit for home-support services for seniors.

TABLE 2

Overview of the principal changes that will be made to the parameters of the refundable tax credit as of January 1, 2013

Parameters of the calculation of the tax credit

– $3,900 increase in the cap on eligible expenses

– Gradual increase in the rate of the tax credit from 30% to 35%

– Elimination of the reduction to the tax credit based on family income for seniors recognized as dependent

Recognized home-support services

– Recognition of remote monitoring services and GPS tracking services

Congregate residential facilities for seniors

– Certification of private seniors' residences

Determination of eligible expenses included in rent

– Improvement to the tables for determining eligible expenses included in rent

❑ Improvement to the parameters of the calculation of the tax credit

■ Increase in the cap on eligible expenses

The annual cap on eligible expenses will be raised by $3 900. Thus, for seniors other than those recognized as dependent, the cap will be raised from $15 600 to $19 500. For seniors recognized as dependent, the annual cap on eligible expenses will be raised from $21 600 to $25 500.

For greater clarity, seniors will be entitled to the annual cap of $25 500 if, according to a written attestation from a physician, they depend and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of their needs and personal care, or they need constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity.

In this regard, the needs and personal care of seniors will cover only personal hygiene, dressing, eating and mobility or transfers.

■ Gradual increase in the rate of the tax credit

The rate of the tax credit for home-support services for seniors will gradually be increased to 35%. More specifically, for each taxation year, as of the 2013 taxation year, the rate of the tax credit will be increased by 1 percentage point, until it reaches 35% in 2017.

TABLE 3

Gradual increase in the rate of the tax credit

Taxation year	2013	2014	2015	2016	2017 and beyond
Rate of the tax credit	31%	32%	33%	34%	35%

■ Elimination of the income-based reduction to the tax credit for seniors recognized as dependent

Currently, the amount of the tax credit otherwise determined for a person who lives alone or whose spouse has not reached age 70, or for a couple both members of which are age 70 or older, must be reduced based on family income.[10] The reduction is made at the rate of 3% for each dollar of family income that exceeds the reduction threshold applicable for the year.[11]

To reflect the fact that seniors recognized as dependent, in comparison with other seniors, are obliged to devote a much larger share of their income to paying for assistance services, these seniors will not be required to reduce the amount of the tax credit otherwise determined based on their family income.

For greater clarity, when the refundable tax credit for home-support services for seniors is determined in respect of a couple, elimination of the reduction based on family income will apply as soon as one of the members of the couple is recognized as dependent.

❑ Recognition of remote monitoring services and GPS tracking services

Under the current rules, specialized monitoring services do not constitute home-support services recognized for the purposes of the tax credit. As a result, the fees paid for the use of a remote monitoring service cannot be included in the calculation of the expenses eligible for the tax credit.

---

10 A person's family income is the person's income plus that of his or her spouse, if the person has a spouse.

11 For the 2012 taxation year, this threshold is set at $53 465.

Person-focused remote monitoring can provide an emergency call service activated, in particular, by a bracelet or pendant, which makes it possible to provide rapid assistance to seniors. Such monitoring can also provide a service to remotely measure various physiological parameters[12] or remotely supervise the taking of medication.

Use of remote monitoring is on the rise among seniors not living in congregate residential facilities for retirees. It helps to reduce the anxiety that certain seniors may experience, particularly if they live alone.

Several studies of person-focused remote monitoring have shown a considerable reduction in the number of hospitalizations and medical interventions for the users of such a service. Thanks to rapid intervention, particularly after a fall, such a service can help prevent or reduce the risk of complications.

To help seniors remain in their home, the list of recognized personal support services will be changed to include person-focused remote monitoring services provided to seniors not living private seniors' residences.

Moreover, although tracking devices that aid in locating a lost person are not yet widely used in Québec, given the pace at which the technologies used by such devices are advancing, they are likely to soon be easily accessible on the market.

Tracking devices use an emitter, installed in articles such as a watch, a cellphone or shoes, that relays signals to a receiver. Tracking methods vary depending on the device. In certain cases, service use fees are added to the cost of the tracking device.

To reflect the fact that GPS tracking devices can help seniors suffering from certain diseases[13] to remain in their living environment for longer, the list of recognized personal support services will be changed to include services related to the use of such devices.

For greater clarity, rental or purchase costs of a device necessary for supplying a remote monitoring service or a GPS tracking device will not constitute expenses eligible for the refundable tax credit for home-support services for seniors.[14]

12 For example, blood sugar levels and vital signs such as pulse, blood pressure and blood oxygen saturation.

13 For example, Alzheimer's disease and the related disorders which are Creutzfeldt-Jakob disease, Lewy body dementia, frontotemporal dementia and vascular dementia.

14 However, these costs will be eligible for the new refundable tax credit for the purchase of equipment to help seniors continue living independently at home, described in subsection 1.4.

❑ Certification of private seniors' residences

Persons who pay rent to live in a residence for the elderly must determine the amount of the eligible expenses included in their rent using a table for determining expenses prepared for that purpose. However, if they pay rent to live in other types of rental buildings, the amount of eligible expenses included in their rent is limited to 5% of the portion of the monthly rent for which they are responsible, up to a total rent of the $600 per month.

This distinction is justified by the quantity of services offered by residences for the elderly.

According to the current tax legislation, a residence for the elderly is a congregate residential facility where dwelling units intended for elderly persons are offered for rent along with a varied range of services relating mainly to security, housekeeping assistance and assistance with social activities.

For the purposes of this definition, a dwelling unit is a self-contained domestic establishment or a room, other than such a unit located in any of the following:

— a facility maintained by a public institution or a private institution under agreement contemplated by the *Act respecting health services and social services*[15] that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre within the meaning of that Act;

— a facility maintained by a hospital centre or a reception centre that is a public institution for the purposes of the application of the *Act respecting health services and social services for Cree Native persons*[16] or that has made a contract or an agreement under section 176 or 177 of that Act;

— a building or a residential facility where the services of an intermediate resource or a family-type resource within the meaning of the *Act respecting health services and social services*, or of a foster family contemplated by the *Act respecting health services and social services for Cree Native persons*, are offered.

Subject to the fact the tax legislation treats a private residential and long-term care centre not under agreement as a residence for the elderly, the definition of the latter expression is harmonized with the definition of the expression "private seniors' residence"[17] found in the *Act respecting health services and social services*.

15 R.S.Q., c. S-4.2.

16 R.S.Q., c. S-5.

17 The expression "private seniors' residence" replaced the expression "residence for the elderly" as of November 30, 2011.

On November 29, 2011, the National Assembly passed the *Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences*,[18] hereafter referred to as the "Act tightening up the certification process for residences." This legislation will entail various changes affecting private seniors' residences for the purpose of improving the security of seniors living there.

Briefly, this legislation introduces a new definition of what, as of November 30, 2012,[19] a private seniors' residence ought to be for the purposes of the *Act respecting health services and social services* and introduces new rules for operating such residences, including a rule that a person must obtain a temporary certificate of compliance to begin operating such a residence. The legislation also revises the provisions relating to the maintenance or renewal of certificates of compliance issued to existing residences.

The legislation also confers on health and social services agencies the power to evacuate and relocate persons housed in a private seniors' residence in certain specific circumstances and according to a specific procedure. It also provides that, after certification of a private seniors' residence has been revoked or refused, the resident seniors can count on maintenance of the services of the residence until the cessation of its activities, as well as assistance for relocating. In such cases, seniors will be able to cancel their lease with prior notice of fifteen days without penalty, instead of several months as currently provided for in the *Civil Code of Québec*.[20]

To ensure that the tax assistance granted by the refundable tax credit for home-support services for seniors in respect of the expenses included in rent is representative of the level of home-support service obtained and with a view to maintaining the coherency of the government's action in support of seniors living in a residence, the tax legislation will be amended, as of the 2013 taxation year, to provide that the concept of "residence for the elderly" is replaced by the concept of "private seniors' residence" introduced by the Act tightening up the certification process for residences.

More specifically, the tax legislation will be amended to provide that, for the purposes of the refundable tax credit for home-support services for seniors, a congregate residential facility or a part of such a facility is a private seniors' residence for a given month where the operator of the facility holds a temporary certificate of compliance or a certificate of compliance issued by the health and social services agency of the region in which the facility is located, provided the certificate is valid at the beginning of the given month.

---

18 S.Q. 2011, c. 27. The Act was assented to on November 30, 2011.

19 A date prior to November 30, 2012 could be fixed by order in council of the government.

20 S.Q. 1991, c. 64.

Moreover, according to the Act tightening up the certification process for residences, where, in respect of a facility or a part of a facility, the health and social services agency of the region in which the facility is located revokes a temporary certificate of compliance or refuses to issue, revokes or refuses to renew a certificate of compliance, the agency can prescribe the conditions that the operator of the residence concerned must comply with until the cessation of the activities of the residence. In such a case, it must prescribe a maximum period for terminating the activities of the residence. At the end of the period, the temporary certificate of compliance or the certificate of compliance, as the case may be, ceases to have effect.

Also, for any month that follows the month during which the activities of the residence ceased, the residence will not be considered a private seniors' residence until such time as a new temporary certificate of compliance has been issued in respect of it. For greater clarity, where, at the beginning of a given month, a person age 70 or older lives in a dwelling unit in a facility or a part of a facility that has ceased to be a private seniors' residence, the amount of the eligible expenses included in the person's rent will be limited to 5% of the portion of the monthly rent for which the person is responsible, up to a total rent of the $600 per month.

Transitional rules are prescribed by the Act tightening up the certification process for residences for cases where the operator of a private seniors' residence does not hold a certificate of compliance on the date of the coming into force of the new certification rules. Briefly, these rules are designed to prescribe the conditions that the operator of the private seniors' residence must comply with until the cessation of its activities.

To ensure a harmonious transition, the tax legislation will be amended to provide that a congregate residential facility that, on December 31, 2012, is a residence for the elderly for the purposes of the refundable tax credit for home-support services for seniors will be considered a private seniors' residence for any month after December 2012 that precedes the month following the month during which the activities of the residence ceased, in the following cases:

- the operator of the residence had started the certification process before November 30, 2011 and was refused the issue of a certificate of compliance;
- in the event that the operator of the residence does not hold a certificate of compliance on November 30, 2012[21] and filed an application for a temporary certificate of compliance with the health and social services agency of the region in which the residence is located no later than the date one month after the date of the coming into force of section 42 of the Act tightening up the certification process for residences, no temporary certificate was issued in respect of the residence within three months of the filing of the application for certification.

21 See note 19.

❑ Determination of eligible expenses included in rent

Persons age 70 or older who live in a dwelling unit in a residence for the elderly must determine the amount of the eligible expenses include in their rent using the table for determining expenses that is applicable to their situation.

One of these tables applies to a senior who either lives in a dwelling unit alone or solely with another person housed by the senior, or is a co-lessee of a dwelling unit with at least one other person who is not the senior's spouse. The other two tables apply to seniors who share a dwelling unit solely with their spouse, depending on whether or not the spouse has reached age 70 at the end of a given month.

No portion of the rent other than that which is determined using the applicable table may be considered an eligible expense for the purposes of calculating the tax credit.

Briefly, the tables assign a value to the various recognized home-support services that are offered by residences for the elderly and that lessees (or sublessees) agree to pay for in their total rent.

However, the aggregate of the values attributed for a given month to the various services provided to a senior by the residence in which the senior lives may not exceed 75% of the total rent paid to the residence for that month in the case of a dependent senior, or 65% in all other cases.

To take into account the integration into the tax legislation of the concept of "private seniors' residence," the rules concerning the determination of the eligible expenses included in rent will be changed to provide that not only persons age 70 or older living in a dwelling unit in a private seniors' residence, but also those living in a private residential and long-term care centre not under agreement must use a table for determining expenses.

In addition, to better reflect the heavy expenses that seniors experiencing a loss of autonomy are obliged to incur and to take into account the tighter conditions that will be applied to the certification process for private seniors' residences, seniors will, as of the 2013 taxation year, benefit from an increase to the maximum amount assigned in respect of the majority of the items in the table for determining expenses.

The number of tables for determining expenses will be reduced from three to two.

One of them (the table for determining expenses on an individual basis) will apply to seniors who either live in a dwelling unit alone or with another person that they house, or are co-lessees of a dwelling unit with at least one other person who is not their spouse or live with a spouse under age 70 at the end of a given month. For the purposes of this table, a senior is deemed to be the lessee or the co-lessee of the dwelling unit he or she lives in if his or her spouse is the lessee or co-lessee of the unit.

The other table (the table for determining expenses of a couple) will apply to seniors who share a dwelling unit solely with their spouse age 70 or older at the end of a given month. For this purpose, a senior is deemed to be the lessee of the dwelling unit he or she lives in if his or her spouse is the lessee of the unit.

In accordance with the current rules, for the purposes of these tables, the total rent corresponds to the rent of the dwelling unit indicated on the copy of the lease or, in the case of an oral lease, on the document given to the lessee, to which is added, if applicable, the additional rent for specific services, taking into account, if the lease was renewed, the changes made to the rent for the dwelling unit and to the additional rent, if any. Where the total rent is set for a term other than a month, it must be converted to correspond to the total rent payable for a month.

In addition, where a senior is (or is deemed to be) the co-lessee of a dwelling unit, the senior's total monthly rent will be equal to his or her share of the total monthly rent payable for the unit based on the number of co-lessees in the dwelling unit.

Where a senior shares a dwelling solely with his or her spouse, the total monthly rent will be the rent paid for the dwelling unit, regardless of which spouse pays the rent or how they split it between themselves.

To determine the amount of eligible expenses included in the total monthly rent, a senior[22] must first establish, in accordance with the table applicable to his or her case, the maximum value of the eligible expenses by adding, to the value of the basic component, the value of the various components related to the services received by the senior or the senior's household, as the case may be, as indicated on the form "Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons," which completes the lease for the dwelling unit.

However, where the form is not filled out for a dwelling unit, the maximum value of the eligible expenses included in the total monthly rent will be equal to the value of the applicable basic component.

After determining the maximum value of his or her eligible expenses included in the total monthly rent, a senior must compare that value with the amount obtained by applying to the total monthly rent the maximum percentage of the total rent that can be recognized as eligible expenses. The lower of the two amounts will be the amount of eligible expenses included in the rent for the purposes of calculating the refundable tax credit for home-support services for seniors.

22 For greater clarity, according to the rules applicable to the determination of the refundable tax credit for home-support services for seniors, where a senior entitled to the tax credit for a given year is the eligible spouse of another senior who is also entitled to the tax credit for that year, only one of them may claim the tax credit for the household.

The tables for determining expenses, which will be applicable as of 2013, are presented below. The shaded parts of the tables show the maximum amounts that have been increased.

TABLE 4

New tables for determining eligible expenses included in rent paid to live in a private seniors' residence

	Table for determining expenses on an individual basis			Table for determining expenses of a couple		
	Rate applicable (%)(1)	Minimum amount ($)	Maximum amount ($)	Rate applicable (%)(1)	Minimum amount ($)	Maximum amount ($)
Basic component	15	150	375	12	150	375
Meal service						
– one meal per day	10	100	200	14	200	400
– two meals per day	15	150	300	21	300	600
– three meals per day	20	200	400	26	400	800
Housekeeping(2)	5	50	125	4	50	125
Laundry service(3)	5	50	125	5	75	125
Nursing service(4)	10	100	250	8	100	250
Personal care service(5)						
– basic	10	100	350	15	200	600
– dependent senior supplement(6)	10	100	10% of total rent	10(7)	200	10%(7) of total rent
Maximum established on the basis of the rent[1]						
– General			65%			70%
– Dependent senior(6)			75%			80%(8)

(1) The rate must be applied to the total monthly rent for the dwelling unit.
(2) The service must be provided at least once every two weeks.
(3) The service must be provided for bedding or clothing at least once a week.
(4) A member of the Ordre des infirmières et infirmiers du Québec or the Ordre des infirmières et infirmiers auxiliaires du Québec must be present at least three hours per day.
(5) A personal care attendant must be present at least seven hours per day.
(6) A senior is considered dependent if, according to a written attestation from a physician, he or she depends and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of his or her needs and personal care, or requires constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity. In this regard, the needs and personal care of a senior cover only personal hygiene, dressing, eating and mobility or transfers.
(7) If both spouses are dependent, the rate will be 20%.
(8) If one of the spouses is dependent, the rate of 80% will apply automatically.

Moreover, for greater clarity, where an individual pays an amount as total rent to a private seniors' residence for a given period in a year (a month, a week or another period in accordance with the term of the total rent) and, during that period, he or she pays an amount in addition to the total rent in order to receive a recognized home-support service, the individual may not include any portion of that amount in the calculation of expenses eligible for the tax credit for the year, unless the amount was paid:

— either to the private seniors' residence or a related person, in order to receive a nursing service or personal care service;

— or to a person or a partnership other than the private seniors' residence or a related person, in order to receive a nursing service, personal care service, meal preparation[23] or meal delivery[24] service, or a housekeeping service for living areas, including a clothing care service[25] that is provided along with it.

1.2 Improvement to the amount granted to the informal caregiver of an elderly spouse unable to live alone

It is difficult for seniors experiencing a severe loss of autonomy to remain in their home without the contribution of loved ones. The responsibilities of assistance and care provided to seniors generally fall to the spouse, who often is also elderly and vulnerable.

Seniors living in a private seniors' residence are fortunate in that they can, at all times, count on a range of home-support services which, when they become their spouse's informal caregiver, lighten their burden and provide them with respite.

On the other hand, people who are still living at home with an elderly spouse who becomes unable to live alone have far fewer resources at their disposal.

The need of such people for respite is recognized by the tax system, which, beginning with the 2011 taxation year, has provided a refundable tax credit in the amount of $591, subject to automatic annual indexation.[26]

Briefly, the refundable tax credit for informal caregivers caring for an elderly spouse is intended, in a given year, for an individual whose spouse, age 70 or older, with whom the individual lives in a dwelling other than a dwelling located in a residence for the elderly throughout a period of at least 365 consecutive days beginning in the year or the previous year, of which at least 183 days are in the year, has a severe and prolonged impairment in mental or physical functions rendering him or her unable to live alone, as attested by a physician.

23 This is either a service that consists in helping a senior prepare meals in a dwelling unit that is the senior's principal place of residence or a meal preparation service provided by a community organization established and operated exclusively for non-profit purposes.

24 This is a meal delivery service provided by a community organization established and operated exclusively for non-profit purposes.

25 Clothing care service does not include a service provided by an entrepreneur whose principal business consists in providing dry cleaning, laundering, pressing and related services.

26 For the 2012 taxation year, the tax credit is $607.

To offer individuals caring for an elderly spouse unable to live alone the opportunity to obtain a little more respite, the amount granted in respect of the refundable tax credit for informal caregivers caring for an elderly spouse will be raised to $700 for the 2012 taxation year and will increase gradually thereafter by $75 each year, to $1 000 as of the 2016 taxation year. The $1 000 amount will be automatically indexed each year as of January 1, 2017.

TABLE 5

Increase in the amount of the refundable tax credit for caregivers caring for an elderly spouse
(in dollars)

Taxation year	2012	2013	2014	2015	2016
Amount of the tax credit	700	775	850	925	1 000(1)

(1) This amount will be automatically indexed each year as of January 1, 2017.

Moreover, for the sake of consistency, the concept of “residence for the elderly” referred to by the refundable tax credit for informal caregivers caring for an elderly spouse will be replaced, as of the 2013 taxation, by the concept of “private seniors’ residence,” which will be used for the purposes of the refundable tax credit for home-support services for seniors.

1.3 Introduction of a refundable tax credit for costs incurred by seniors for a stay in a functional rehabilitation transition unit

Seniors experiencing a loss of autonomy are particularly susceptible to the effects of surgery or a lengthy hospitalization. To avoid a decline in their functional abilities, the time during which they remain immobilized must be as brief as possible.

Also, for seniors, the longer the stay in hospital, the longer the time they will require to recover or recuperate before returning home.

Currently, the spaces in functional rehabilitation transition units developed by the public health and social services network make it possible to avoid seniors being prematurely admitted to an accommodation facility following a hospital stay by offering clinical services adapted to their needs that promote their functional rehabilitation with a view to returning them to their home.

Experience has shown that nearly 80% of seniors who have stayed in such a unit recovered the necessary degree of autonomy to be able to return to live at home in total safety.

For tax purposes, expenses paid for a stay in a functional rehabilitation transition unit are treated as expenses eligible for the non-refundable tax credit for medical expenses. The purpose of this tax credit is essentially to recognize the fact that medical expenses paid by an individual reduce the individual’s ability to pay income tax. However, unlike a refundable tax credit, it is not designed to grant financial assistance in respect of the payment of such expenses.

In view of the fact that a stay in a functional rehabilitation transition unit helps seniors to remain in their home and avoid premature referral to a long-term accommodation facility, a refundable tax credit for expenses incurred by seniors for a stay in such a unit will be introduced as of the 2012 taxation year.

More specifically, the tax legislation will be amended to provide that an individual who, at the end of a given taxation year,[27] or on the date of death if the individual died in the year, resides in Québec and is age 70 or older is entitled, for the year, to a refundable tax credit equal to 20% of the total of the amounts each of which corresponds to the aggregate of the expenses paid in the year in respect of a stay, begun in the year or the previous year, in a functional rehabilitation transition unit, up to the portion of that aggregate that is attributable to stay of no more than 60 days.

For the purposes of this tax credit, a functional rehabilitation transition unit is a public or private resource offering accommodation and services focusing on re-education and rehabilitation for persons experiencing a loss of autonomy who have a geriatric profile and present a potential for recovery with a view to returning home following hospitalization.

Moreover, the costs paid for a stay in a functional rehabilitation transition unit that will be taken into account in the calculation of eligible costs or expenses for the purposes of another refundable or non-refundable tax credit claimed by the individual or any other person will not give entitlement to the refundable tax credit for costs incurred by seniors for a stay in a functional rehabilitation transition unit.

Nor may the tax credit be claimed with respect to expenses for which a taxpayer is or was entitled to a refund or other form of assistance, unless the expenses must be included in the calculation of the taxpayer's income and are not deductible in the calculation of the taxpayer's income or taxable income.

1.4 Introduction of a refundable tax credit for the purchase or rental of equipment to help seniors continue living independently at home

Home should be the place where seniors feel safest. Yet many seniors suffer injuries in their home, most often due to a fall. Bathrooms and stairs are especially dangerous because they increase the risks of seniors' losing their balance or tripping.

Falls are the cause of about half of all injuries among seniors. They often result in hip fractures, which are especially feared by seniors because of the complications and lengthy rehabilitation that may ensue.

For the health care system, falls occasion enormous costs. In addition to hospitalizations, they are responsible for many admissions of seniors to residential and long-term care centres.

27 For greater clarity, at the end of December 31 of the given year.

Following a fall, seniors often limit their activities because they are afraid of falling again. Unfortunately, when they reduce their activities, they run the risk of losing their muscular strength and their flexibility—which increases the risk of a fall.

However, there are several devices on the market that help seniors increase their autonomy by minimizing the risk of falling or by facilitating rapid intervention in the case of an accident, devices which thereby help seniors to remain in their home.

In this context, a refundable tax credit for the purchase or rental of equipment to help seniors continue living independently at home will be introduced as of the 2012 taxation year.

More specifically, the tax legislation will be amended to provide that an individual who, at the end of a given taxation year,[28] or on the date of death if the individual died in the year, resides in Québec and is age 70 or older is entitled, for the year, to a refundable tax credit equal to 20% of the portion, in excess of $500, of the aggregate of the amounts paid in the year for the purchase or rental, including installation costs, of equipment intended to be used in the individual's principal place of residence and consisting of any of the following:

— an person-focused remote monitoring device, such as an emergency call device ("panic button"), a device for remotely measuring various physiological parameters or a device for remotely supervising the taking of medication;

— a GSP device for tracking a person;

— a device designed to assist a person to get on or off a toilet or into or out of a bathtub or shower;

— a walk-in bathtub or a walk-in shower;

— a mechanized, rail-mounted chair lift designed solely to carry a person up or down a stairway;

— a hospital bed.

However, amounts that have been taken into account in the calculation of eligible costs or expenses for the purposes of another refundable or non-refundable tax credit claimed by the individual or any other person will not give entitlement to the refundable tax credit for the purchase or rental of equipment to help seniors continue living independently at home.

Nor may the tax credit be claimed with respect to amounts for which a taxpayer is or was entitled to a refund or other form of assistance, unless the expenses must be included in the calculation of the taxpayer's income and are not deductible in the calculation of the taxpayer's income or taxable income.

28 See the preceding note.

2. MEASURES RELATING TO POOLED RETIREMENT SAVINGS

In this budget, the government is undertaking to table a bill so that the rules for the implementation of voluntary retirement savings plans can enter into force January 1, 2013.

These plans, whose purpose is to encourage more Quebecers to save for retirement, will enable all workers to have access to a private pension plan with all the advantages of a group plan offering professional management of savings by administrators subject to stringent requirements and low management fees as a result of the accumulation of a large volume of savings.

To encourage better retirement coverage while limiting the administrative burden on small employers, companies with at least five eligible employees will be required to offer a voluntary retirement savings plan unless they already offer their employees the possibility of contributing to a retirement savings plan through payroll deductions.

The federal government, for its part, tabled in the House of Commons, on November 17, 2011, Bill C-25, the *Pooled Registered Pension Plans Act*. This legislation will provide the framework for the creation of a new type of pooled pension plan for workers under federal jurisdiction and will have objectives similar to those of the voluntary retirement savings plan.

To reflect these new retirement savings vehicles, i.e. voluntary retirement savings plans and pooled registered pension plans, a series of amendments will have to be made to the tax legislation and regulations.

2.1 Québec's position on the federal tax rules relating to pooled registered pension plans

On December 14, 2011, the federal government published, for discussion, a set of legislative proposals designed to amend the *Income Tax Act*[29] and the *Income Tax Regulations*[30] to reflect pooled registered pension plans.[31]

These proposals seek to amend the income tax rules so that pooled registered pension plans are included so as to ensure that these plans are compatible with the system of rules and limits applicable to registered pension plans and registered retirement savings plans.

The proposed tax rules apply to federally-regulated pooled registered pension plans as well as to those subject to provincial regulation, such as voluntary retirement savings plans, and will apply alongside the *Pooled Registered Pension Plans Act*, which will govern federally-regulated plans.

---

29 R.S.C. 1985, c. 1 (5th Supp.).

30 C.R.C., c. 945.

31 DEPARTMENT OF FINANCE CANADA, *News Release 2011-134: Provincial and Federal Governments Partner Toward Introduction of Pooled Registered Pension Plans,* www.fin.gc.ca/n11/11-134-eng.asp.

Since the reform of tax assistance for retirement savings implemented in the early 1990s, the tax rules relating to retirement savings that apply under Québec's tax system have been completely harmonized with those under the federal tax system.

Given the degree of complexity of the provisions introduced by this reform, for individuals, employers and the tax administration, harmonization with the federal measures has not resulted in the incorporation of all of these measures in Québec's legislation.

In the interests of simplification, the *Taxation Act*[32] stipulates that a retirement savings plan that is registered by the Minister of Revenue of Canada and whose registration is in force is, as the case may be, a registered pension plan, a deferred profit sharing plan, a registered retirement savings plan or a registered retirement income fund for the purposes of Québec's tax system.

It also stipulates that the amounts that may be deducted notably on account of contributions or premiums to such plans are those allowed as deductions for the purposes of the federal tax system.

However, the federal rules relating to the taxation of amounts from these various retirement savings plans were incorporated into Québec's legislation.

Since pooled registered pension plans are retirement savings mechanisms, the approach that Québec intends to follow regarding harmonization with the federal tax measures relating to such plans is essentially the same as the one used following the reform of tax assistance for retirement savings.

Briefly, this approach would involve recognition of the registration of pooled pension plans by the Minister of Revenue of Canada, so that the registration conditions of these plans would not be incorporated into the *Taxation Act*. Accordingly, for the purposes of Québec's tax system, a pooled registered pension plan would be a pooled pension plan accepted for the purposes of the *Income Tax Act* by the Minister of Revenue of Canada as a pooled registered pension plan and whose registration is in force.

The federal measures relating to the deductibility of contributions to a pooled registered pension plan would be incorporated into the *Taxation Act* by means of a reference to the federal legislation, so that the amounts deductible on that account are those allowed as a deduction for the purposes of the federal tax system.

For their part, the federal measures relating to the tax treatment of amounts from a pooled registered pension plan and the income of the trust governed by such a plan would be incorporated into the *Taxation Act*.

Moreover, concerning the proposed consequential amendments to the federal legislation to reflect pooled registered pension plans, the harmonization decisions will depend essentially on whether or not provisions equivalent to those amended at the federal level are present in Québec's tax legislation and regulations.

---

32 R.S.Q., c. I-3.

Furthermore, provided the legislative proposals concerning pooled registered pension plans are adopted, Québec's tax legislation and regulations would be amended to incorporate some of the proposed measures. These amendments would apply on the same dates as those for the purposes of the federal measures to which they would be harmonized.

The following tables list the measures that would be retained and those that would not.

TABLE 6

List of measures retained

Measures that should be incorporated into Québec's tax legislation and regulations with adaptations based on their general principles	References[1]
– Measure relating to the non-taxation of the benefit resulting from contributions to a pooled registered pension plan	6(1)*a*)(i) ITA
– Measure relating to the non-deductibility of certain expenses for a loan contracted to contribute to a pooled registered pension plan	18(11)*c*) ITA
– Measure relating to the deductibility of employer contributions to a pooled registered pension plan, provided the inclusion of this measure is made by reference to the amount allowed as a deduction under the *Income Tax Act*	20(1)*q*) ITA
– Measure relating to the inclusion of benefits from a pooled registered pension plan in calculating income	56(1)*z.3*) ITA
– Measure relating to the exceptions to the application of attribution rules	75(3)*a*) ITA
– Measure relating to the exclusion of a trust governed by a pooled registered pension plan from the definition of the expression “trust”	108(1) ITA / “trust”
– Measure relating to the definition of the expression “pension income” for the purposes of the pension tax credit and the retirement income splitting mechanism between spouses	118(7) ITA / “pension income”
– Measure relating to the rules used to determine whether a child or grandchild is financially dependent on an individual	146(1.1) ITA
– Measure relating to an individual’s account in a specified pension plan	146(21.2) ITA
– Measure relating to amounts transferred from a registered retirement income fund	146.3(14.1) ITA
– Measure relating to the definition of the expressions “administrator”, “member”, “pooled pension plan”, “qualifying annuity”, “qualifying survivor”, “single amount” and “successor member”	147.5(1) ITA in part
– Measure relating to the tax treatment of income earned by a trust governed by a pooled registered pension plan	147.5(8) ITA
– Measure relating to the deductibility of employer contributions to a pooled registered pension plan, provided the inclusion of this measure is made by reference to the amount allowed as a deduction under the *Income Tax Act*	147.5(10) ITA
– Measure relating to the presumption under which a contribution paid to a pooled registered pension plan is a premium to a registered retirement savings plan for the purposes of certain legislative provisions	147.5(11) ITA
– Measure relating to the presumption under which a member’s account under a pooled registered pension plan is deemed to be a registered retirement savings plan for the purposes of certain legislative and regulatory provisions	147.5(12) ITA

Measures that should be incorporated (continued)	References
– Measure relating to the taxation of amounts from a pooled registered pension plan	147.5(13) ITA
– Measure relating to the amounts deemed distributed in the event of the death of a member of a pooled registered pension plan in the absence of a successor member	147.5(14) ITA
– Measure relating to the rules that apply in the event of the death of a member of a pooled registered pension plan where there is a successor member	147.5(15) ITA
– Measure relating to the distribution to a qualifying survivor of amounts in the account of a pooled registered pension plan	147.5(16) ITA
– Measure relating to the distribution to a person other than a qualifying survivor of amounts in the account of a pooled registered pension plan	147.5(17) ITA
– Measures relating to the decline in the value of the account under a pooled registered pension plan after a member's death	147.5(18) and 147.5(19) ITA
– Measures relating to the authorized transfer of amounts in the account of a member under a pooled registered pension plan	147.5(20) and 147.5(21) ITA
– Measure relating to the taxation of a qualifying annuity acquired with funds transferred from a pooled registered pension plan	147.5(22) ITA
– Measure relating to the tax exemption allowed to a trust governed by a pooled registered pension plan	149(1)*u.3*) ITA
– Measure relating to the power to issue a new assessment to reflect the decline in the value of an account under a pooled registered pension plan after the member's death	152(6)*f.3*) ITA
– Measure relating to the definition of the expressions "retirement compensation arrangement", "salary deferral arrangement" and "superannuation or pension benefit"	248(1) ITA
– Measure relating to investments in a limited partnership	253.1 ITA
– Measure relating to the definition of the expression "specified taxpayer"	259(5) ITA
– Measure relating to the exemption from tax withholding at source on certain amounts distributed from a pooled registered pension plan	100(1) ITR / "remuneration"
– Measure relating to the filing by the administrator of a pooled registered pension plan of an information return concerning the plan	213 ITR
– Measure relating to the addition of pooled registered pension plans to the list of tax-exempt pension fund investment and management companies	4802(1)*c.3*) ITR
– Measure relating to the addition of trusts governed by a pooled registered pension plan to the list of persons who may be beneficiaries of a master trust	4802(1.1)*e*) ITR
Measures that, while no legislative amendment would be required, would also be retained	
– Measure relating to the rollover of certain amounts received following the death of a member of a pooled registered pension plan	60*l*)(v)(B.1)(II)1 ITA
– Measures relating to the transfer to a registered disability savings plan of amounts from a pooled registered pension plan of a deceased member	60.02(1) ITA
– Measure relating to the inclusion of the contributions of an employer to a pooled registered pension plan for the purposes of the determination of the amount of unused RRSP deduction room	146(1) ITA / "unused RRSP deduction room"

Measures that, while no legislative amendment would be required, would also be retained (continued)	
– Measure relating to the calculation of the amount eligible as a registered retirement savings plan premium deduction	146(5)*b*) ITA
– Measure relating to the deductibility of non-deducted registered retirement savings plan premiums	146(8.2)*b*)(iii) ITA
– Measure relating to allowed contributions to a registered pension plan	8502*b*)(iv) ITR

(1) References correspond to the provisions of the *Income Tax Act* (ITA) or the *Income Tax Regulations* (ITR) that, according to the legislative provisions concerning pooled registered pension plans presented on December 14, 2011, should be amended or introduced in the federal legislation or regulations.

TABLE 7

List of measures not retained

Measures not retained	References[1]
– Measure relating to the registration conditions of registered retirement income funds	146.3(2)*f*) ITA
– Measures relating to the definition of the expressions "designated pooled pension plan", "excluded investment", "participating employer", "restricted investment" and "specified unitholder"	147.5(1) in part, 147.5(28), 147.5(29) and 248(1) ITA
– Measures relating to the registration of pooled pension plans	147.5(2), 172(3)*h*) and 172(5) ITA
– Measures relating to the withdrawal of registration of a pooled registered pension plan	147.5(3), 147.5(4), 147.5(23) to 147.5(27) and 180(1)*c.2*) ITA
– Measure relating to the benefits that can be paid under a pooled pension plan	147.5(5) ITA
– Measure relating to the additional conditions that may be imposed on a pooled registered pension plan	147.5(6) ITA
– Measures relating to amendments to a pooled registered pension plan	147.5(7), 172(3)*i*), 172(5) and 180(1)*d*) ITA
– Measure relating to the administration of a pooled registered pension plan	147.5(9) ITA
– Measure relating to the power to make regulations in respect of pooled registered pension plans	147.5(30) ITA
– Measure relating to the tax on excess contributions paid to registered retirement savings plans	204.2 ITA
– Measure relating to payments received from a pooled registered pension plan by non-residents	212(1)*h*) ITA
– Measures relating to the communication of information concerning pooled registered pension plans	241(4)*d*)(vii) and 241(10)*b*) ITA
– Measure relating to the definition of the expression "registered pension plan"	248(1) ITA

(1) References correspond to the provisions of the *Income Tax Act* (ITA) or the *Income Tax Regulations* (ITR) that, according to the legislative provisions concerning pooled registered pension plans presented on December 14, 2011, should be amended or introduced in the federal legislation or regulations.

2.2 Reduction in payroll contributions for employers participating in the acquisition of shares of a labour fund

In addition to fostering investment in Québec companies to create or maintain jobs, the mission of the Fonds de solidarité FTQ and Fondaction, the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi, is to educate workers to the need to save for retirement by encouraging them to purchase shares they issue.

Essentially, the shares of these labour funds are designed to be a retirement savings tool, since generally a shareholder's shares cannot be redeemed or purchased by agreement before reaching age 65 or, if he has not yet reached that age, unless he has elected to take early retirement or retirement.

The locking-in until retirement of the amounts invested in labour funds has encouraged many employers, mainly those whose employees acquire shares through payroll deduction, to purchase such shares for the benefit of their employees. For some of them, such purchases are in addition to the contributions they otherwise pay into a supplemental pension plan while for others they replace them.

Unlike the contributions an employer pays into a registered pension plan for its employees, its acquisition of shares of a labour fund for the benefit of its employees is a benefit whose value must be included in the calculation of their income from an office or employment.

This tax treatment is appropriate because, since it is not considered a retirement benefit, the proceeds from the disposition of the shares will not have to be included in full in the calculation of the employees' income. Only 50% of the increase in the value of the shares will be subject to tax in their hands after disposition of the shares. In addition, in the event that the employees transfer their shares to a registered retirement savings plan, the fair market value of the shares thus transferred is considered a premium for which a deduction may be claimed in calculating their income.

This difference in treatment, while justified from a tax standpoint, can influence the choice of means by which an employer contributes to the retirement savings of its employees since it has a direct impact on the contributions it must pay on its payroll.

Where an employer, during a pay period, grants a taxable benefit in kind to an employee, it must add the value of such benefit to his remuneration to calculate his pay subject to employee and employer contributions to the Québec Pension Plan, the employer contribution to the Health Services Fund and the compensatory tax.[33]

33 For greater clarity, taxable benefits in kind are generally not subject to employee and employer contributions to the Québec Parental Insurance Plan.

In addition, the value of such benefit is included in remuneration for the purposes of calculating the contribution an employer must pay to fund the Commission des normes du travail, in the wages to be reported by an employer for the purposes of calculating its contribution to the Commission de la santé et de la sécurité du travail, in the total payroll used to determine its contribution rate to the Health Services Fund and in its payroll used to determine its participation in manpower skills development and, if necessary, its contribution to the Workforce Skills Development and Recognition Fund.

Accordingly, in the interests of neutrality, a change will be made to the base wages, as defined in the *Taxation Act*[34] for the purposes of the compensatory tax required of financial institutions, which is used as the point of departure in determining the contributions required under the *Act respecting the Québec Pension Plan*,[35] the *Act respecting the Régie de l'assurance maladie du Québec*,[36] the *Act respecting Labour Standards*,[37] the *Act respecting industrial accidents and occupational diseases*,[38] and the *Act to promote workforce skills development and recognition*.[39]

More specifically, the value of the benefit from amounts paid by an employer to acquire for the benefit of one of its employees a share or fraction of a share issued by the Fonds de solidarité FTQ or Fondaction will be excluded from the base wages of such employee.

This change will apply regarding a share or fraction of a share acquired after December 31, 2012.

---

34 R.S.Q., c. I-3.

35 R.S.Q., c. R-9.

36 R.S.Q., c. R-5.

37 R.S.Q., c. N-1.1.

38 R.S.Q., c. A-3.001.

39 R.S.Q., c. D-8.3.

3. MEASURES FOSTERING ECONOMIC DEVELOPMENT

The tax system is one of the government's preferred tools for achieving certain strategic economic, social and cultural objectives. Accordingly, over the years, various fiscal measures have been implemented to support Québec's economic development. These measures are designed to meet the ever-changing needs of Québec's economy as if faces new challenges, in particular the expected decline in its workforce because of the aging of the population and workforce training in the manufacturing, forest and mining sectors.

As part of the 2012-2013 Budget Speech, the government intends to continue the efforts it has undertaken in this regard. Accordingly, amendments will be made to the tax legislation in particular to foster greater participation among workers age 65 or over on the labour market, to enhance the tax credit relating to manufacturing and processing equipment and to encourage the creation of new financial services corporations.

3.1 Reduction in contributions to the Health Services Fund for employers employing workers age 65 or over

Populations are aging in a very large number of countries. The combined effect of a declining birthrate and longer expectation of life over the last forty years has inevitably led to this aging phenomenon, and Québec is not immune.

According to the most recent demographic projections of the Institut de la statistique du Québec, Québec's working-age population will begin to decline in 2013 and this negative growth is expected to continue for more than a decade.

Like many other societies, Québec has historically had to deal with excess manpower. It must now transition to a situation of manpower scarcity.

For Québec's economic development to continue, it is therefore important experienced workers remain on the labour market as long as possible.

To encourage experienced workers to remain on or return to the labour market, the government previously announced, in the 2011-2012 Budget Speech, the implementation, as of the 2012 taxation year, of a tax credit designed to eliminate tax payable by persons age 65 or over on part of their earned income in excess of $5 000.

However, no strategy to keep persons age 65 or over employed or encourage them to return to work can succeed without the participation of employers. It is crucial that employers make allowance for the expectations of older workers, in particular regarding work time arrangement.

Accordingly, to encourage private-sector employers to hire or keep workers age 65 or over at work, employers who make use of such workers may claim, as of 2013, a reduction in their contributions to the Health Services Fund. For each employee at least 65 years old, this reduction may reach $400 in 2013. The maximum amount of this deduction will be raised to $500 in 2014, to $800 in 2015 and finally $1 000 as of 2016.

❑ Determination of the reduction

An employer, other than an excluded employer that, during a given year, has paid, allocated, granted or awarded an eligible wage to one or more employees age 65 or over, will be deemed to have paid for the year an excess contribution to the Health Services Fund of an amount equal to the lesser of the following two amounts:

— 10% of all the amounts each of which represents the eligible wage bracket for the year of an employee age 65 or over;

— the amount of contributions to the Health Services Fund it must pay for the year for all its employees, regardless of their age.

Where an employer is deemed to have paid for a given year an excess contribution to the Health Services Fund, it may obtain the refund of such excess contribution upon request to the Minister of Revenue within the four years following the end of the year for which he is deemed to have paid such excess contribution. Such request must be made in writing and be accompanied by the documents and information allowing the Minister to establish such excess.

❑ Application details

In general, any employer, other than a public-sector employer, that has an establishment in Québec may claim a refund of part of its contributions to the Health Services Fund if it employs at least one worker age 65 or over. Such refund will be accessible to corporations, individuals and partnerships.

For the purposes of determining the reduction in contributions to the Health Services Fund, the expressions “excluded employer”, “eligible wage bracket” and “eligible wage” will have the meanings set out below.

■ Excluded employer

An excluded employer for a year will mean the government of Canada or of a province,[40] a municipality of Canada, as well as an employer that, at a given time of the year, is:

— either an organization that is a mandatary of the government of Canada, of a province or of a municipality of Canada;

— or a Canadian public organization, a corporation, board or association, exempt from income tax under one of sections 984 and 985 of the *Taxation Act*.[41]

40 For greater clarity, the term “province” means a province of Canada and includes the Northwest Territories, Yukon and Nunavut.

41 R.S.Q., c. I-3.

■ **Eligible wage bracket**

The expression “eligible wage bracket” of an employee for a given year means the excess, over $5 000, of the employee’s eligible wage for the year, up to:

— $4 000 if the given year is 2013;

— $5 000 if the given year is 2014;

— $8 000 if the given year is 2015;

— $10 000 if the given year is a year after 2015.

■ **Eligible wage**

The eligible wage of an employee age 65 or over for a given year will correspond to any portion of his wage that was used in the calculation of a contribution to the Health Services Fund payable for the year by the employer, excluding an amount representing the value of a benefit that the employee received or benefited from because of a prior office or employment.

However, for the year during which an employee reaches age 65, his eligible wage for the year will be reduced to the portion thereof that is attributable to the period of the year throughout which he was at least age 65.

❑ **Integrity rule**

Where a number of employers associated among themselves at the end of a given year have paid, during the year, a wage to an employee age 65 or over, the total of the amounts each of which represents the employee’s eligible wage bracket for the year for the purposes of the excess contribution to the Health Services Fund of each such employer may not exceed the amount that would have represented the employee’s eligible wage bracket for the year had the wages paid to the employee by each of these employers been paid by just one of them. In the absence of an agreement among the employers, the eligible wage bracket of the employee for the year for each of them will be deemed equal to zero.

3.2 Introduction of tax relief for public transportation organized by employers

Public transit is in keeping with sustainable development because of its economic, environmental and social dimensions.

By reducing fuel consumption and, consequently, greenhouse gas emissions, public transmit is a way of combatting climate change.

Shifting from automobiles to public transit reduces traffic and traffic accidents while enabling people to get to work.

In many ways, increasing the use of public transit concerns employers directly, as they are well-placed to witness the benefits their employees and their business derive from this mode of transportation.

The Québec Public Transit Policy contains a number of incentives for employers to cover part of the cost of public transit use by their employees and facilitate the development of alternatives to the use of private automobiles.

These incentives include two fiscal measures to encourage the setting up of workplace programs that promote regular use of public transit.

The first measure allows employers to deduct, in the calculation of income from a business, an additional amount equal to 100% of the amount otherwise deductible for the amounts reimbursed to employees for the cost of an eligible transit pass, or for the cost of transit passes supplied to employees.

Under the second measure employees do not have to include, in the calculation of their income from an office or employment, the value of the benefit arising from the reimbursement or supply of an eligible transit pass by their employer.

For the purposes of these measures, eligible transit passes are passes purchased by employees or supplied by the employer to enable employees to get from their ordinary place of residence to their place of work, either using public transit, other than paratransit, provided by a public entity authorized by law to organize such a service, provided that, where the cost of the pass is reimbursed by the employer, the pass consists of a subscription for a period of at least one month, or using a paratransit service provided by a public entity authorized by law to organize such a service.

Currently, even if a number of public entities offer public transit services between municipalities, these services are still insufficient, or even non-existent, in some regions of Québec. To remedy this situation, some employers are able to organize intermunicipal transportation services for a large number of their employees. Although such public transportation services are not public transit services as such, they can nevertheless keep a significant number of cars off the road in the morning and in the evening.

In this context, amendments will be made to the tax legislation so that intermunicipal public transportation services organized by employers for a large number of their employees give entitlement to similar tax treatment to that granted to employers who set up a program promoting regular use of public transit.

More specifically, the tax legislation will be amended to stipulate that an employer that organizes, alone or jointly with other employers, a public transportation service for employees who live outside the local municipal territory where the establishment they normally work at is located may deduct, in the calculation of its income from a business for a given taxation year, an additional amount equal to 100% of the amount otherwise deductible for the setting up and operation of such a service, if the following conditions are met:

— the transport service is provided at least five days a week, except during holidays or a slowdown in the business' activities;

— employees are transported in a vehicle with a design capacity of at least 15 people (coach, minibus or van);

— employees can get on and off the vehicle only at pre-determined places.

For greater clarity, where the employer owns the vehicle used for the intermunicipal transport system supplied to its employees, the portion of the additional amount of the deduction that is attributable to an amount otherwise deducted as depreciation on the vehicle will not be recaptured further to the disposition of the property.

In addition, the tax legislation will be amended to stipulate that employees are not required to include, in the calculation of their income from an office or employment, the value of the benefits relating to the use of an intermunicipal public transportation service organized by their employer, where such service meets the conditions giving entitlement to the additional deduction of 100% for employers.

These changes will apply as of the 2012 taxation year.

3.3 Enhanced recognition of post-secondary studies for the purposes of the tax credit for new graduates working in a remote resource region

Since 2006, to counter the exodus of young people from remote resource regions and influence their migration to such regions, the tax system has granted a non-refundable tax credit to new graduates who decide to begin their career in a remote resource region.

Briefly, the tax system stipulates that an individual who is a new graduate and moves to a remote resource region[42] to hold a job related to his field of specialization can claim a tax credit reducing his tax payable by up to $3 000 per year – up to a cumulative amount of $8 000 –, as long as he resides on a continuous basis in a remote resource region and holds a job there related to his field of specialization.

To receive the non-refundable tax credit for new graduates working in a remote resource region for a year, an individual must reside in a remote resource region at the end of such year and be in any of the following situations:

— he starts an eligible job[43] at any time of the year included in a 24-month period following the date on which he either successfully completed the courses and internships, if any, leading to a recognized diploma,[44] or obtained a recognized master's or doctoral diploma under a program of instruction that stipulates the writing of an essay, dissertation or thesis;

42 For the purposes of the tax credit, the administrative regions of Bas-Saint-Laurent (region 01), Saguenay–Lac-Saint-Jean (region 02), Abitibi-Témiscamingue (region 08), Côte-Nord (region 09), Nord-du-Québec (region 10) and Gaspésie–Îles-de-la-Madeleine (region 11), the regional county municipalities of Antoine-Labelle, La Vallée-de-la-Gatineau, Mékinac and Pontiac as well as the agglomeration of La Tuque are remote resource regions.

43 An eligible job of an individual is the office or employment whose duties are usually carried out by the individual in a remote resource region, if such duties are related, on the one hand, to a business that the employer carries on in such region and, on the other, to the knowledge and skill the individual acquired in the course of the training or program leading to his obtaining a recognized diploma.

44 Essentially, a recognized diploma is a diploma that sanctions secondary level vocational training, college level technical training or university training.

— he holds an eligible job in the year and resides in a remote resource region throughout the period beginning at the end of the last taxation year for which he was entitled to the refundable or non-refundable tax credit for new graduates working in a remote resource region and ending at the end of the year.

To date, some 50 000 new graduates who have decided to acquire their initial professional experience in a remote resource region have received a tax reduction thanks to this non-refundable tax credit.

To encourage young graduates to remain in remote resource regions, the maximum tax assistance of $8 000 is granted only to those who reside there for at least three consecutive years.

Despite the fact that many new graduates who have benefited from the tax credit continue to live in the regions three years after having started to hold an eligible job there, remote resource regions still, all other things being equal, have fewer residents with post-secondary education, than Québec as a whole.

Accordingly, to encourage more new graduates who have completed post-secondary studies to begin their career in a remote resource region, the tax legislation will be amended to stipulate that individuals who begin to hold an eligible job after the day of the Budget Speech and within the 24 months following the date on which they either successfully completed training leading to a recognized post-secondary diploma or obtained a recognized master's or doctoral degree under a program of instruction stipulating the writing of an essay, a dissertation or a thesis, may receive a cumulative amount of $10 000 on account of the tax credit for new graduates working in a remote resource region.

For greater clarity, any of the following diplomas will be considered as a recognized post-secondary diploma:

— a diploma of college studies in technical training awarded by the Minister of Education, Recreation and Sports or by a college-level educational institution to which the Minister delegated responsibility for awarding such a diploma;

— an attestation of college studies in technical training awarded by a college-level educational institution in Québec;

— a bachelor's, master's or doctoral diploma awarded by a Québec university;

— a diploma awarded by an educational institution located outside Québec that is considered, further to a comparative assessment carried out by the Minister of Immigration and Cultural Communities, comparable with one of the diplomas mentioned above;

— a certification of studies for a post-secondary program of the Conservatoire de musique et d'art dramatique du Québec, the École du Barreau du Québec, the École nationale de police du Québec or the National Theatre School of Canada.

3.4 Renewal of the refundable tax credit for labour training in the manufacturing, forestry and mining sectors

The refundable tax credit for labour training in the manufacturing,[45] forestry and mining[46] sectors is designed to support the efforts of companies that contribute to the development of the skills of their employees.

Briefly, an eligible employer can claim a refundable tax credit, for a taxation year, equal, for each eligible employee, to 30% of eligible training expenditures incurred regarding such eligible employee during such taxation year.

An eligible employer, for a taxation year, means a corporation, other than an excluded corporation, or a partnership, that, during the year, has an establishment in Québec and carries out an eligible activity there, namely an activity relating to the manufacturing sector, the forestry sector or the mining sector.

The tax credit applies for an eligible training expenditure incurred:

— after November 23, 2007 for the manufacturing sector and after March 19, 2009 for the forestry and mining sectors;

— before January 1, 2012.

In addition, the eligible training expenditure has to relate to eligible training beginning:

— after November 23, 2007 for the manufacturing sector and after March 19, 2009 for the forestry and mining sectors;

— before January 1, 2012.

Considering the benefits arising from this tax credit for eligible employees who participate in training activities as well as for the businesses that benefit from them, the tax legislation will be amended to renew the refundable tax credit for labour training in the manufacturing, forestry and mining sectors until December 31, 2015 under the same terms and conditions.

Consequently, the refundable tax credit for labour training in the manufacturing, forestry and mining sectors will apply regarding an eligible training expenditure incurred:

— after November 23, 2007 for the manufacturing sector and after March 19, 2009 for the forestry and mining sectors;

— before January 1, 2016.

---

45 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2007-9*, November 23, 2007, p. 3.

46 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2009-2010 – Additional Information on the Budgetary Measures*, March 19, 2009, p. A.25.

In addition, the eligible training expenditure will have to relate to eligible training beginning:

— after November 23, 2007 for the manufacturing sector and after March 19, 2009 for the forestry and mining sectors;

— before January 1, 2016.

3.5 Changes to the refundable tax credit for multimedia titles (general) and the refundable tax credit for corporations specialized in the production of multimedia titles

An initial refundable tax credit for multimedia titles (general) was introduced in the May 9, 1996 Budget Speech.[47] Furthermore, in the March 31, 1998 Budget Speech,[48] a second refundable tax credit applying specifically to corporations whose activities consist essentially in producing such titles was introduced (tax credit for specialized corporations).

In general, the difference between the two tax credits lies in the fact that a corporation that wishes to receive a tax credit for multimedia titles (general) must obtain the required certificates regarding each multimedia title it produces, while a corporation that wants to claim the tax credit for specialized corporations must obtain the required certificates for all of its activities. In either case, the certificates are issued by Investissement Québec.[49]

Moreover, the amount of tax assistance a qualified corporation may receive is based on the amount of its qualified labour expenditure, to which is applied a percentage that depends on the tax credit. From the standpoint of the tax credit for multimedia titles (general), the percentage varies depending on the category to which each of the eligible multimedia titles produced by the corporation belongs. As for the tax credit for specialized corporations, this percentage varies depending on the category to which the eligible multimedia titles the corporation produces in a taxation year belong.

For the purposes of either tax credit, the qualified labour expenditure of a qualified corporation may include the amount of the consideration that is paid to a subcontractor that carried out eligible production work relating to a multimedia title or multimedia titles, as the case may be, on behalf of the corporation. However, in the case where the subcontractor holds a specialized corporation certificate, only the latter can receive the tax credit.[50]

---

47 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1996-1997 – Budget Speech and Additional Information*, May 9, 1996, Appendix A, p.45.

48 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1998-1999 – Additional Information on the Budgetary Measures*, March 31, 1998, Section 1, p. 46.

49 *Act respecting the sectoral parameters of certain fiscal measures*, S.Q. 2012, c. 1, Appendix A.

50 *Taxation Act,* sec. 1029.8.36.0.3.8 and 1029.8.36.0.3.18.

In light of the experience acquired to date, the tax credit for multimedia titles (general) and the tax credit for specialized corporations will be changed to, in particular, simplify their application. Accordingly, amendments to the tax legislation as well as to the sectoral parameters will be made in relation to the categorization of multimedia titles, the specialized corporation certificate, the rules applicable to subcontracting and eligible production work.

3.5.1 Change relating to the categorization of multimedia titles

Under the existing rules, in the case of a corporation eligible for the tax credit for multimedia titles (general), the rate of the tax credit for a corporation relating to an eligible multimedia title is one of the following:

- 37.5%, where the qualification certificate certifies that the title is produced without having been ordered, that it is to be commercialized and that it is available in a French version;
- 30%, where the qualification certificate certifies that the title is produced without having been ordered, that it is to be commercialized and that it is not available in a French version;
- 26.25% in any other cases.

Moreover, the rate of the tax credit for a specialized corporation for a taxation year is one of the following:

- 37.5% where the qualification certificate certifies either that at least 75% of the eligible multimedia titles it produced in the year were produced without having been ordered, that they are to be commercialized and that they are available in a French version, or that at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;
- 30% where the preceding rate does not apply and the qualification certificate certifies either that at least 75% of the eligible multimedia titles the corporation produced in the year were produced without having been ordered and that they are to be commercialized, or that at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;
- 26.25%, where the qualification certificate certifies, on the one hand, that less than 75% of the eligible multimedia titles the corporation produced in the year were produced without having been ordered and were to be commercialized and, on the other, that less than 75% of its gross revenue for the year is derived from such eligible multimedia titles.

Under the sectoral parameters relating to the tax credit for multimedia titles (general) and the tax credit for specialized corporations,[51] a title is considered to be intended to be commercialized only if it is accessible to the public and if genuine commercialization efforts are made.

51 *Act respecting the sectoral parameters of certain fiscal measures*, Appendix A, sec. 5.8 and 6.8.

Moreover, while the notion of multimedia titles resulting from an order has made it possible in recent years to simplify the analysis of the business risk incurred by a corporation,[52] it appears that this notion must be reviewed in view of the ongoing changes in the industry.

Consequently, the categorization of multimedia titles will be changed. Accordingly, the notion of titles resulting from an order will be withdrawn from the existing categories. In addition, since business risk is often much smaller for a vocational training title, the rate of the tax credit applicable in its regard will be 26.25%.

The tax legislation will thus be amended so that the above rates apply to the new categories described below. For multimedia titles (general), the rates will be as follows:

- 37.5%, where the qualification certificate certifies that title is to be commercialized, is available in a French version and is not a vocational training title;
- 30%, where the qualification certificate certifies that title is to be commercialized, is not available in a French version and is not a vocational training title;
- 26.25% in any other cases, including a vocational training title.

Concerning a specialized corporation, the rates for a taxation year will be as follows:

- 37.5%, where the qualification certificate certifies that at least 75% of the multimedia titles it produced in the year are to be commercialized, are available in a French version and are not vocational training titles, or where at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;
- 30%, where the preceding rate does not apply and the qualification certificate certifies that at least 75% of the multimedia titles the corporation produced in the year are to be commercialized and are not vocational training titles, or at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;
- 26.25%, where the qualification certificate certifies that, on the one hand, less than 75% of the eligible multimedia titles the corporation produced in the year are to be commercialized, including the vocational training titles and, on the other, less than 75% of its gross revenue for the year is derived from such eligible multimedia titles.

52 Titles resulting from an order are considered less risky for the corporation and give rise to the rate of 26.25% while other titles give rise to the rate of 30% and the bonus of 7.5% if the title is available in a French version.

The sectoral parameters relating to the tax credit for multimedia titles (general) and the tax credit for specialized corporations will also be changed consequently to reflect these new categories.[53]

These changes will apply to a certification application filed with Investissement Québec after the day of the Budget Speech regarding a given taxation year ending after that day.

3.5.2 Change relating to the specialized corporation certificate

Under the sector-based parameters relating to the tax credit for specialized corporations, to receive this tax credit for a taxation year, a corporation must obtain a specialized corporation certificate from Investissement Québec certifying that all or almost all of the activities it carries out in the year in Québec consist in producing, for itself or on behalf of another person or partnership, eligible multimedia titles and, if applicable, in carrying out scientific research and experimental development relating to such titles.[54]

It is difficult for a corporation that encompasses all the activities usually carried out in the normal course of carrying on a business to satisfy the condition according to which all or almost all the administrative activities a corporation carries out in Québec consist in producing eligible multimedia titles.

Consequently, this condition will be changed so that a corporation may obtain a specialized corporation certificate if 75% of the activities it carries out in the year in Québec consist in producing, for itself or on behalf of another person or partnership, eligible multimedia titles and, if applicable, in carrying out scientific research and experimental development relating to such titles and if it satisfies the other conditions stipulated otherwise.

This change will apply to a certification application filed with Investissement Québec after the day of the Budget Speech regarding a taxation year ending after that day.

However, where a corporation obtains, because of such change, a specialized corporation certificate, further to an application filed with Investissement Québec after the day of the Budget Speech, it may not claim a tax credit as a specialized corporation for work it carries out under a subcontract entered into before the day of the budget unless the corporation that awarded the contract to it cannot claim a tax credit as an eligible corporation regarding the same work.

---

53 See note 49.

54 *Ibid.*

3.5.3 Change to the rules applicable to subcontracting

In general, a qualified corporation, whether for the tax credit for multimedia titles (general) or the tax credit for specialized corporations, can itself carry out the production work relating to a multimedia title or multimedia titles, as the case may be, or entrust its execution, under a subcontract, to a subcontractor with which it is or is not at arm's length. Accordingly, in the case where a qualified corporation enters into a subcontract in the course of which it entrusts the execution of eligible production work to a subcontractor qualified as a specialized corporation and that holds a specialized corporation certificate for the purposes of the tax credit for specialized corporations, the tax legislation then allows the subcontractor, but not the qualified corporation that awarded the contract, to claim the tax credit.

Given that the tax assistance should target essentially the corporation that assumes the greatest economic risk and that such risk is practically non-existent for the one carrying out the work in the course of a subcontract, the tax legislation will be changed so that the tax assistance is granted to the corporation that assumes the economic risk relating to the eligible production work, in this case the corporation that awards the subcontract.

Accordingly, a qualified corporation may in the course of carrying out a contract claim the tax credit for specialized corporations where the corporation that awards it the contract may not qualify as a specialized corporation because it does not have an establishment in Québec.

This change will apply to subcontracts relating to eligible production work entered into after the day of the Budget Speech.

3.5.4 Broadening of eligible production work

Under the applicable sectoral parameters, eligible production work relating to an eligible multimedia title, both for the tax credit for multimedia titles (general) and for the tax credit for specialized corporations, is work done to carry out the production stages of such title during a period beginning at the start of the design stage and ending 36 months after the completion of a final version.

This work includes, in particular, activities relating to the writing of the screenplay of the title, the development of its interactive structure, the acquisition and production of its component elements, its computer development and systems architecture. However, activities relating to the mastering of an eligible title, the copying of its information media, the acquisition of copyright, its promotion, dissemination and distribution, apart from those relating to systems architecture, cannot be recognized as eligible production work in respect of an eligible title.

Moreover, according to the existing rules, eligible production work does not include activities relating to data analysis with the aim of optimizing the operation of a multimedia title. However, the duties carried out by a game information analyst, who is active in analyzing data to optimize the operation of a multimedia title, are often inseparable from the title's success.

Consequently, eligible production work will include the activities relating to quantitative data analysis related to the operation of an eligible multimedia title with the intention of optimizing its operation.

This change will apply to a certification application filed with Investissement Québec after the day of the Budget Speech regarding a taxation year ending after that day.

3.6 Improvement to the tax credit for investments relating to manufacturing and processing equipment

Briefly, an eligible corporation[55] that acquires an qualified property, during a taxation year, may receive, regarding its eligible expenses, the tax credit for investments relating to manufacturing and processing equipment for such taxation year. The rate of the tax credit for investments can reach 40%. It is determined by taking into account the location where the qualified property is used, the paid-up capital of the corporation calculated on a consolidated basis and the cumulative cap of $75 million in eligible expenses. The base rate of the tax credit for investments is 5%.

The tax credit for investments to which an eligible corporation is entitled, for a taxation year, can be deducted from its income tax otherwise payable for such taxation year. The portion of the tax credit for investments relating to a taxation year that cannot be applied against income tax payable by the corporation for such taxation year may be refunded, in whole or in part, or carried over. Whether the tax credit for investments is refundable or not, for a taxation year, is determined on the basis of the paid-up capital of the corporation calculated on a consolidated basis and the cumulative cap of $75 million in eligible expenses.

A qualified property,[56] for the purposes of the tax credit for investments, is an property included in Class 29 of Schedule B of the *Regulation respecting the Taxation Act*[57] or in Class 43 of such schedule, as the case may be. It must begin being used within a reasonable time of its acquisition and be used during a period of at least 730 days, only in Québec and mainly in the course of carrying on a business. Prior to its acquisition, it must not have been used for any purpose nor acquired to be used or rented for any purpose whatsoever. An eligible corporation may receive the tax credit for investments for the qualified properties it acquires before January 1, 2016.

---

55 A corporation that is a member of a partnership that acquires an eligible asset may receive the tax credit for investments relating to manufacturing and processing equipment in proportion to its share of the partnership's income or loss.

56 The expression "qualified property", for the purposes of the tax credit for investments, is defined in section 1029.8.36.166.40 of the *Taxation Act*.

57 R.R.Q., c. I-3, r. 1.

Briefly, Class 29 of Schedule B of the *Regulation respecting the Taxation Act* includes a property, such as machinery or equipment, acquired by a taxpayer before January 1, 2014[58] and used in Canada primarily for making or processing articles intended for sale or lease. Such a property acquired after December 31, 2013 will be included in Class 43 of that schedule.

Class 43 of Schedule B of the *Regulation respecting the Taxation Act* also includes a property, such as machinery or equipment, acquired by a taxpayer for use exclusively in Canada and primarily in the course of processing ore extracted from a mineral resource located in a country other than Canada (foreign ore).[59]

The *Regulation respecting the Taxation Act*[60] stipulates that, for the purposes of Class 29 of such Regulation, making or processing does not include activities of processing iron ore from a mineral resource, up to a stage not exceeding the pellet stage or its equivalent, the processing of tar sands ore from a mineral resource, up to a stage not exceeding that of crude oil or its equivalent, and, for other ore from a mineral resource, the processing of ore up to a stage not exceeding that of prime metal stage or its equivalent.

Since these ore processing activities are not considered manufacturing or processing activities for the purposes of Class 29 of Schedule B of the *Regulation respecting the Taxation Act*, property used primarily for such activities is not Class 29 property and, unless it is Class 43 property, is not qualified property for the purposes of the tax credit for investments even if a portion of such activities is likened to manufacturing or processing activities.

Moreover, this restriction does not apply to property acquired to be used exclusively in Canada and primarily in the course of processing foreign ore and that, as such, are included in Class 43 of Schedule B of the *Regulation respecting the Taxation Act*.[61]

To take into account the value added produced by certain ore processing activities, i.e. smelting, refining and hydrometallurgy, amendments will be made to the tax legislation so that property used primarily in the course of such ore processing activities, other than ore from a gold or silver mine, extracted from a mineral resource located in Canada may qualify as qualified property for the purposes of the tax credit for investments.

---

58 The Minister of Finance of Canada announced the extension of the accelerated capital cost allowance deduction for machinery or equipment intended for use in Canada primarily for manufacturing or processing in June 6, 2011 Budget Speech (see: DEPARTMENT OF FINANCE CANADA, *The Next Phase of Canada's Economic Action Plan – A Low-Tax Plan for Jobs and Growth*, June 6, 2011, Annex 3, Tax Measures: Supplementary Information, Notices of Ways and Means Motions and Draft Amendments to the Income Tax Regulations, p. 304). Harmonization of Québec's tax regulations with the federal tax regulations in relation to this extension was announced in *Information Bulletin 2011-3*, of July 6, 2011 (p. 5).

59 Such property is mentioned in subparagraph *b* of Class 43 of Schedule B of the *Regulation respecting the Taxation Act*.

60 Sec. 130R12.

61 Subparagraph *b* of Class 43 of Schedule B of the *Regulation respecting the Taxation Act* does not refer to property that would otherwise be included in Class 29 of such schedule.

Moreover, an additional period will be granted for the acquisition of property used primarily in the course of ore smelting, refining or hydrometallurgy activities, other than ore from a gold or silver mine, extracted from a mineral resource, regardless of their place of extraction.

❑ Qualified property

The expression "qualified property", for the purposes of the tax credit for investments, will be changed so that property acquired by a taxpayer for use exclusively in Québec and primarily in the course of ore smelting, refining or hydrometallurgy activities, other than ore from a gold or silver mine, extracted from a mineral resource located in Canada, may be a qualified property.[62]

To qualify, such a property must, in addition to satisfying the other conditions stipulated by the tax legislation, be acquired after the day of the Budget Speech and before January 1, 2018. However, it must not be:

— property acquired in accordance with a written obligation entered into no later than the day of the Budget Speech;

— property whose construction, by the taxpayer or on his behalf, was already in progress the day of the Budget Speech.

The definition of the expression "qualified property", for the purposes of the tax credit for investments, will also be changed so that property included in Class 43 of Schedule B of the *Regulation respecting the Taxation Act*, that is acquired for use exclusively in Québec and primarily in the course of foreign ore smelting, refining or hydrometallurgy activities, other than ore from a gold or silver mine, is qualified property, for the purposes of the tax credit for investments, if it is acquired before January 1, 2018 and if it satisfies the other conditions otherwise stipulated by the tax legislation.[63]

For the purposes of these amendments:

— smelting means any processing of ore or concentrate wherein which the charge is melted and chemically converted to produce a slag and a matte or metal containing impurities;

---

62 For greater clarity, the property covered by this change is property that would have been included in Class 43 of Schedule B of the *Regulation respecting the Taxation Act*, under its subparagraph *b*, had such subparagraph mentioned such smelting, refining and hydrometallurgy activities, other than the ore from a gold or silver mine, extracted from a mineral resource in Canada and if subparagraph i of such subparagraph *b* were read so as to cover property that would be included in Class 10 under subparagraph *e* of the second paragraph of such Class if such subparagraph *b* and subparagraphs *a*, *b* and *e* of the first paragraph of Class 41 were not taken into account.

63 In particular, the condition of being acquired after March 13, 2008. For greater clarity, such property will be that included in Class 43 of Schedule B of the *Regulation respecting the Taxation Act*, under its subparagraph *b*, and used primarily in the course of smelting, refining or hydrometallurgy activities.

— refining means any processing of the product of smelting or concentration operation to remove impurities, which produces very high grade metal;

— hydrometallurgy means any processing of ore or concentrate producing a metal, metallic salt or metallic compound by carrying out a chemical reaction in an aqueous or organic solution.

❑ Other rules maintained

For greater clarity, all the other rules currently applicable to the tax credit for investments remain unchanged.

3.7 Introduction of fiscal measures to encourage the creation of new financial services corporations

The financial services sector makes a substantial contribution to Québec's economic development. This industry relies chiefly on highly specialized workers who support the economy through a set of financial solutions and, consequently, participate in wealth creation.

Financial services corporations face increasingly keen competition and very complex regulation in the context of market globalization. This context hampers the emergence of new financial services corporations as well as the recruitment and retention of the personnel necessary to maintain this industry's vitality in Québec.

Accordingly, to encourage the creation of new corporations in the financial services sector, two new refundable tax credits will be introduced for a period of five years.

Briefly, an eligible corporation may claim a refundable tax credit representing 30% of the eligible salary it pays to its eligible employees during a taxation year included in its five-year period of eligibility for this fiscal measure. However, the tax credit will be limited to $30 000 per eligible employee on an annual basis.

In addition, an eligible corporation may claim a refundable tax credit representing 40% of the eligible expenditures it pays during a taxation year included in this five-year period. However, the tax credit will be limited to $150 000 on an annual basis.

Moreover, to help an eligible corporation recruit foreign employees, a five-year tax holiday will be granted to a foreign specialist whose duties consist in carrying out specific activities with such a corporation.

3.7.1 Refundable tax credit for the hiring of employees by a new financial services corporation

An eligible corporation may receive, for a taxation year, a refundable tax credit equal to 30% of the eligible salaries it incurs during the period of validity of its qualification certificate that is included in such taxation year.[64]

64 The sectoral parameters of this refundable tax credit are given in the *Act respecting the sectoral parameters of certain fiscal measures*.

❑ Eligible corporation

For the purposes of this refundable tax credit, an eligible corporation means a corporation that holds a qualification certificate issued by the Minister of Finance and that, for a taxation year, holds an eligibility certificate issued by the Minister of Finance.

Moreover, such corporation must have an establishment in Québec and carry on a business there. In addition, it must not carry on a personal services business[65] nor be tax-exempt.

❑ Qualification certificate

A corporation must submit an application with all the required information to the Minister of Finance, before the end of its second fiscal period, to obtain a qualification certificate for the purposes of this refundable tax credit.

However, no application for a certificate may be submitted to the Minister of Finance after December 31, 2017. Moreover, no qualification certificate may have an effective date earlier than the date of its application.

Accordingly, to obtain a qualification certificate, a corporation will have to show that its net shareholders' equity shown in its financial statements for its fiscal period preceding that during which its certificate application is submitted were less than $15 million calculated on a consolidated basis.[66]

The corporation must also show that its activities consist or will consist of one or more of the following activities:

- an analysis, research, management, advisory and securities trading service or securities distribution, carried out by a securities dealer that is one of the following;
  - an investment dealer,
  - a derivatives dealer,
  - a mutual fund dealer,
  - an exempt market dealer,
  - a restricted dealer;
- a securities advisory or securities management service provided by a securities adviser who is one of the following:
  - a portfolio manager,

65 *Taxation Act,* sec. 1.

66 The net shareholders' equity of the corporation will be that shown in its financial statements submitted to the shareholders and prepared in accordance with generally accepted accounting principles or, where the financial statements have not been prepared in accordance with generally accepted accounting principles, that would be shown therein if such financial statements had been prepared in accordance with generally accepted accounting principles.

— a restricted portfolio manager,

— a derivatives portfolio manager,

— a mutual fund manager.[67]

The qualification certificate that the Minister of Finance issues to the corporation will attest that these conditions are satisfied and will specify the activities of the corporation covered by this certificate.

❑ Period of validity of the qualification certificate

The qualification certificate of an eligible corporation will be valid for five years from its effective date. However, a single five-year period will apply where a number of corporations are associated at any time of the first or second fiscal period of any of them. In this regard, the period of validity for all the corporations thus associated will end five years after the effective date of the first qualification certificate issued by the Minister of Finance to any of these associated corporations, hereunder called the "given corporation". Accordingly, an eligible corporation for whom the effective date of the qualification certificate is later than the one of the qualification certificate issued to the given corporation may only enjoy a residual period of validity beginning on the effective date of its qualification certificate and ending five years after the effective date of the qualification certificate issued to the given corporation.

❑ Annual certification

An eligible corporation will have to obtain, for a taxation year, an eligibility certificate from the Minister of Finance. To obtain this eligibility certificate, a corporation will have to show that the activities it carried out during the period of validity of its qualification certificate that is included in such taxation year constitute activities mentioned in the corporation's qualification certificate.

In addition, the eligible corporation will have to show that these activities consisted in delivering services to clients with whom it was at arm's length.

❑ Eligible employee

An eligible employee of an eligible corporation, for a taxation year, means an employee of the eligible corporation regarding whom the Minister of Finance has issued an eligibility certificate, for such year, certifying that the following conditions have been satisfied:

— the employee held a full-time job during the period of validity of the qualification certificate of the eligible corporation, included in such taxation year, involving a minimum of 26 hours of work a week, for an expected minimum period of 40 weeks;

---

67 For the purposes of this tax credit, the expressions "adviser" and "dealer" mean an adviser or dealer, as the case may be, within the meaning of section 3 of the *Derivatives Act* (R.S.Q., c. I-14.01) or section 5 of the *Securities Act* (R.S.Q., c. V-1.1) authorized to act in that capacity under these acts. The expression "security" means a derivative within the meaning of section 3 of the *Derivatives Act* or one of the types of investments listed in section 1 of the *Securities Act*, other than a unit of an investment club.

— 75% of his duties performed during the period of validity of the qualification certificate of the eligible corporation, included in such taxation year, were carried out in an establishment of the eligible corporation located in Québec and they were directly attributable to the transactional process specific to the carrying out of the activities stipulated in the qualification certificate of the eligible corporation.

For greater clarity, an eligible employee's duties relate, as the case may be, to corporate management, finance, accounting, taxation, legal affairs, marketing, communications, reception, secretariat, messaging, computer systems or human and physical resources management will not constitute duties that are directly attributable to the transactional process specific to the carrying out of the activities stipulated in the qualification certificate of the eligible corporation.

In addition, the annual certificate of an eligible employee, for a taxation year, will specify the period of validity of the qualification certificate of the eligible corporation, included in such year, during which such eligible employee carried out such duties.

❑ Eligible salary

The eligible salary of an eligible employee, for a taxation year, means the salary calculated according to the *Taxation Act* that an eligible corporation incurs for such employee during the period of validity of the corporation's qualification certificate that is included in such taxation year.

For greater clarity, the total salary incurred regarding an eligible employee can constitute, subject to the rules described below, an eligible salary for the purposes of the refundable tax credit.

More specifically, the salary incurred by an eligible corporation for an eligible employee, during a taxation year, will be limited to $100 000, calculated on an annual basis depending on the number of days of such year during which the employee qualifies as an eligible employee. In addition, such salary must be reduced by the amount of any government assistance, any non-government assistance, and any profit or benefit attributable to such salary, according to the usual rules.

Accordingly, for a taxation year, this refundable tax credit will be limited to $30 000 per eligible employee, on an annual basis.

The eligible salary incurred by an eligible corporation must have been paid at the time the claim for the refundable tax credit is filed with Revenu Québec.

❑ Other application details

In order to receive the refundable tax credit for the hiring of employees by a new financial services corporation for a taxation year, an eligible corporation will have to enclose with its tax return, for such year, a copy of the qualification certificate and the eligibility certificate issued for it by the Minister of Finance, as well as a copy of the eligibility certificate issued in relation to its eligible employees for whom it claims such tax credit.

Moreover, if the eligible salary regarding which a refundable tax credit was granted is reimbursed to an eligible corporation, in whole or in part, or if the qualification certificate of the corporation or an eligibility certificate for the purposes of this tax credit was revoked, as the case may be, the refundable tax credit granted will be recaptured by means of a special tax, according to the usual rules.

❑ Application date

An eligible corporation that obtains a qualification certificate, after the day of the Budget Speech, may receive this refundable tax credit in relation to an eligible salary it incurs after such day, for an eligible employee.

3.7.2 Refundable tax credit relating to a new financial services corporation

An eligible corporation may receive, for a taxation year, a refundable tax credit equal to 40% of the eligible expenditures it incurs in relation to the period of validity of its qualification certificate that is included in such taxation year.[68]

In this regard, a corporation that qualifies as an eligible corporation for the purposes of the refundable tax credit for the hiring of employees by a new financial services corporation described above will also be considered an eligible corporation for the purposes of this refundable tax credit.

Consequently, the rules applicable to the qualification certificate and its period of validity as well as those concerning an eligible corporation's obligation to obtain annually an eligibility certificate for the purposes of the refundable tax credit for the hiring of employees by a new financial services corporation will apply to this refundable tax credit.

❑ Eligible expenditure

An eligible expenditure means an expenditure that an eligible corporation incurred during a taxation year, that is attributable in whole or in part to the period of validity of its qualification certificate that is included in such year.

In addition, such expenditure must be directly attributable to the activities stipulated in the qualification certificate of the eligible corporation that are performed in an establishment of the corporation located in Québec and constitute one of the following expenditures:

- the fees relating to the constitution of the initial regulatory file submitted to a recognized regulatory or self-regulating body of a financial market;
- the fees relating to the constitution of the initial file for participation in a stock exchange;
- the fees, dues and expenses paid to a recognized regulatory or self-regulating body of a financial market;

68 The sectoral parameters of this refundable tax credit are given in the *Act respecting the sectoral parameters of certain fiscal measures*.

— the fees and costs as a participant in a stock exchange;

— the connection and usage fees for an electronic trading solution for participation in a stock exchange;

— the subscription fees for a financial analysis or research service.

However, the eligible expenditure of the eligible corporation will be limited to $375 000, calculated on an annual basis. An eligible corporation that is associated with another corporation at any time of its taxation year will have to share such expenditure limit with such other corporation under an agreement filed with the Minister of Revenue.[69]

For the corporation's taxation year that includes the day of the Budget Speech, its eligible expenditure limit will be equal to its eligible expenditure limit otherwise determined for the year multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that follow the day of the Budget Speech by the number of days in such taxation year.

Similarly, the corporation's eligible expenditure limit, for the taxation year that includes the date of the end of the validity period of its qualification certificate will be equal to the eligible expenditure limit otherwise determined for the year multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that precede the day following the date of the end of such period by the number of days in such taxation year.

Accordingly, for a taxation year, this refundable tax credit will be limited to $150 000 on an annual basis.

An eligible expenditure incurred by an eligible corporation must have been paid at the time the claim for the refundable tax credit is filed with Revenu Québec.

■ Deemed associated corporations

To prevent the rules on associated corporations from being circumvented, where it is reasonable to consider that one of the main reasons for the separate existence of two or more corporations, in a taxation year, is to have an eligible corporation increase the amount of this tax credit for such year, such corporations will be deemed to be associated with each other during the year.

■ Government and non-government assistance

An eligible expenditure must be reduced by the amount of any government assistance, any non-government assistance and any benefit or advantage, according to the usual rules.

---

69 An eligible corporation will have to enclose with its tax return for such taxation year the agreement allowing it to utilize an amount on account of eligible expenditure limit for the taxation year.

❑ Other application details

In order to receive the refundable tax credit pertaining to a new financial services corporation for a taxation year, an eligible corporation will have to enclose with its tax return, for such year, a copy of the qualification certificate and a copy of the eligibility certificate issued for it by the Minister of Finance.

Moreover, if an eligible expenditure regarding which a refundable tax credit was granted is reimbursed to an eligible corporation, in whole or in part, or if the qualification certificate of the corporation or an eligibility certificate for the purposes of this tax credit was revoked, as the case may be, the refundable tax credit granted will be recaptured by means of a special tax, according to the usual rules.

❑ Application date

An eligible corporation that obtains a qualification certificate after the day of the Budget Speech may receive this refundable tax credit in relation to an eligible expenditure it incurs after that day.

3.7.3 Tax holiday for foreign specialist employed by a new financial services corporation

Briefly, an individual who does not reside in Canada and comes to Québec to work in certain specialized activity sectors, for instance as a researcher,[70] university professor[71] or specialist in the field of international financial transactions and is employed by a person who operates an international financial centre,[72] can receive a tax holiday for a period of five years.

This tax holiday is intended to foster the recruitment of employees in certain activity sectors. It consists of a deduction in the calculation of the employee's taxable income and generally corresponds to a percentage of his salary.

In this vein, a tax holiday will be introduced to foster the hiring of foreign employees specialized in the field of finance.

More specifically, a foreign specialist means an individual regarding whom the Minister of Finance has issued a certificate to the effect that such individual is a professional with a high level of expertise in the field of finance whose duties will focus on the carrying out of the activities stipulated in the qualification certificate of a corporation that qualifies as an eligible corporation for the purposes of the refundable tax credit for the hiring of employees by a new financial services corporation.[73]

---

70 *Taxation Act,* sec. 737.19.

71 *Ibid.,* sec. 737.22.0.5.

72 *Ibid.,* sec. 737.16.

73 The sectoral parameters of this tax holiday will be found in the *Act respecting the sectoral parameters of certain fiscal measures*.

Like the tax holidays currently stipulated in the tax legislation for the hiring of foreign employees, this tax holiday will last for five years, calculated continuously since the day when, for the first time, the foreign specialist commenced employment in the course of a job eligible for one of the various tax holidays granted to certain foreign employees. Accordingly, the amount of tax assistance of this tax holiday will gradually decline during this five-year period.

Thus, the amount that an individual may deduct in calculating his taxable income during this continuous period of five years will correspond to a percentage of his salary equal to 100% for the first and second years of such period, 75% for the third year, 50% for the fourth year and 25% for the fifth year.

The tax legislation will also stipulate that such individual must not reside in Canada immediately before entering into his employment contract or immediately before commencing his employment with the eligible corporation or, if applicable, before entering into an employment contract or immediately before commencing his employment with another eligible employer for the purposes of a tax holiday, according to the usual rules.

Furthermore, the tax legislation will stipulate that such individual must have entered into his employment contract with the eligible corporation during the period of validity of the latter's qualification certificate, and that such individual must work exclusively or almost exclusively for the eligible corporation.

In addition, an eligible corporation will have to submit to the Minister of Finance, for a taxation year of an individual, an annual eligibility certificate application regarding such individual certifying that he is a professional with a high level of expertise in the field of finance at least 75% of whose duties with the eligible corporation, during such year, were directly attributable to the transactional process specific to the carrying out of the activities stipulated in the qualification certificate of the eligible corporation. Such application will have to be filed no later than the last day of February of the year following the one for which the individual will receive this tax holiday.

As well, this certificate will certify that, for a taxation year of the individual, he is recognized as a foreign specialist regarding the period of validity of the qualification certificate of the eligible corporation with which he carries out his duties.

For greater clarity, where the length of the tax holiday of the specialist exceeds the period of validity of the qualification certificate of the eligible corporation, which would have continued to be an eligible corporation were it not for the expiration of such period, such certificate will certify that the foreign specialist carries out his duties with the corporation, as though the corporation still qualified as an eligible corporation.

A specialist employed by a new financial services corporation may not claim the deduction of an amount in calculating his taxable income for a taxation year unless he encloses with the tax return he must file for the year a copy of the certificate issued by the Minister des Finances regarding him.

❑ Application date

An individual may receive this tax holiday, for a taxation year, once he commences employment with an eligible corporation, after the day of the Budget Speech, under an employment contract entered into after that day.

3.8 Introduction of a refundable tax credit pertaining to the diversification of markets of Québec manufacturing companies

The Québec Entrepreneurship Strategy[74] is designed to foster the growth of Québec companies in particular by supporting their efforts to expand and diversify markets for their products.

Accordingly, Québec manufacturing companies must, prior to selling their products outside Québec, assume costs relating to having their products certified compliant with the legal standards in force in these markets.

To support Québec manufacturing companies that want to commercialize their products in markets outside Québec, a new refundable tax credit will be introduced on a temporary basis.

Accordingly, an eligible corporation may, under certain conditions, receive a refundable tax credit equal to 30% of the eligible certification expenses it incurs regarding an eligible good. However, the total amount of this tax credit an eligible corporation may claim for one or more eligible goods, as the case may be, will be limited to $45 000.

❑ Eligible corporation

For the purposes of this refundable tax credit, an eligible corporation means, for a taxation year, a corporation, other than an excluded corporation, that, during the year, has an establishment in Québec where it carries on a business.

Moreover, an eligible corporation will have to obtain an eligibility certificate from Investissement Québec confirming that, for such taxation year, at least 75% of the activities it carried out during the year are eligible activities.[75]

Eligible activities shall consist of the activities grouped under one or more of the following codes of the North American Industry Classification System (NAICS):[76]

— 321215 Structural wood product manufacturing;

— 321216 Particle board and fibreboard mills;

---

74 MINISTÈRE DU DÉVELOPPEMENT ÉCONOMIQUE, DE L'INNOVATION ET DE L'EXPORTATION, *Foncez ! Tout le Québec vous admire – Québec Entrepreneurship Strategy*, November 2011.

75 The sectoral parameters of this tax credit will be found in the *Act respecting the sectoral parameters of certain fiscal measures*.

76 The description of these codes is available on the Statistics Canada website, www.statcan.gc.ca/subjects-sujets/standard-norme/naics-scian/2012/index-indexe-eng.htm.

— 321911 Wood window and door manufacturing;

— 321919 Other millwork;

— 326122 Plastic pipe and pipe fitting manufacturing;

— 326196 Plastic window and door manufacturing;

— 326220 Rubber and plastic hose and belting manufacturing;

— 331210 Iron and steel pipes and tubes manufacturing from purchased steel;

— 332311 Prefabricated metal building and component manufacturing;

— 332319 Other plate work and fabricated structural product manufacturing;

— 332321 Metal window and door manufacturing;

— 332410 Power boiler and heat exchanger manufacturing;

— 332420 Metal tank manufacturing;

— 332910 Metal valve manufacturing;

— 3334 Ventilation, heating, air-conditioning and commercial refrigeration equipment manufacturing;

— 333920 Material handling equipment manufacturing;

— 335920 Communication and energy wire and cable manufacturing;

— 335930 Wire device manufacturing.

In this regard, the gross revenue of the eligible corporation, for a taxation year, will be the criterion considered by Investissement Québec to confirm the carrying out of eligible activities. Accordingly, a corporation will be considered to have carried out at least 75% of its activities under one or more of the NAICS codes listed above where the gross revenue from such activities represents at least 75% of its total gross revenue, either for the taxation year preceding the one covered by the eligibility certificate application or for the second taxation year preceding the taxation year covered by such application.

■ Excluded corporation

An excluded corporation, for a taxation year, means either a corporation that is tax-exempt for such year or a corporation whose assets[77] shown in its financial statements for its fiscal year preceding such year are greater than $50 million.

[77] The assets of the corporation will be those shown in its financial statements submitted to its shareholders and prepared in accordance with generally accepted accounting principles or, where the financial statements have not been prepared in accordance with generally accepted accounting principles, that would be shown therein if such financial statements had been prepared in accordance with generally accepted accounting principles.

❑ Eligible good

An eligible good of an eligible corporation, for a taxation year, means a good made in Québec by the corporation regarding which it obtained, in such year, a certificate certifying the compliance of such good with the legal standards applicable outside Québec where the corporation plans to commercialize such good.

Such certificate must be obtained before January 1, 2017.

❑ Eligible certification expenses

The eligible certification expenses regarding an eligible good of an eligible corporation, for a taxation year, mean the expenditures incurred by the corporation during the year or a prior taxation year that are directly attributable to the expenses required for the certification of such good. Eligible certification expenses include the fees paid to an external consultant, who is at arm's length with the eligible corporation, that are directly attributable to the certification of the good.

All of the certification expenses of an eligible good must be attributable to the activities stipulated in the corporation's eligibility certificate that are carried out in an establishment of the eligible corporation located in Québec.

Moreover, eligible certification expenses must be reduced by the amount of any government assistance, any non-government assistance, and any benefit or advantage attributable to such expenses, according to the usual rules.

The eligible certification expenses incurred by an eligible corporation must have been paid at the time the claim for the refundable tax credit is filed with Revenu Québec.

❑ Determination of the tax credit

The refundable tax credit a corporation may receive, for a given taxation year, regarding one or more eligible goods will correspond to the lesser of:

— 30% of the eligible certification expenses regarding such eligible good or goods, as the case may be, for the given year;

— the amount by which $45 000 exceeds the amount of the tax credit it received for a taxation year prior to the given taxation year.

❑ Other application details

In the event that the eligible certification expenses for which a refundable tax credit was granted are reimbursed to an eligible corporation, in whole or in part, or that the eligibility certificate of the corporation for the purposes of this tax credit is revoked, as the case may be, the refundable tax credit granted will be recovered by means of a special tax, according to the usual rules.

Lastly, in order to receive this refundable tax credit for a taxation year, an eligible corporation will have to enclose with its tax return, for such year, the eligibility certificate issued by Investissement Québec.

❑ Application date

An eligible corporation that obtains an eligibility certificate, after the day of the Budget Speech, may receive this refundable tax credit in relation to eligible certification expenses it incurs after that day, but before January 1, 2016.

3.9 Changes to the refundable tax credit for resources

A qualified corporation that incurs eligible expenses during a taxation year can claim a refundable tax credit for resources, for such year, of up to 38.75% of the amount of such eligible expenses.

The rate of the tax credit a qualified corporation may claim in relation to the eligible expenses it incurs varies according to a number of parameters, including the type of resource to which the eligible expenses are connected, the place where such expenses are incurred, as well as the type of corporation that incurs such expenses.

The following table shows the various rates that apply depending on the applicable parameters.

TABLE 8

Existing rates of the refundable tax credit for resources
(per cent)

Tax credit regarding eligible expenses	Corporations not operating any mineral resource or oil or gas well(1)	Other corporations
– relating to mining resources, oil and natural gas		
▪ in the Mid-North or Far North	38.75	18.75
▪ elsewhere in Québec	35	15
– relating to renewable energy and energy savings	35	30
– relating to other natural resources (cut stone)	15	15

(1) These corporations must not be related to a corporation that develops a mineral resource or an oil or natural gas well.

❑ Reduction of certain rates of the tax credit

The refundable tax credit for resources was set up as part of the March 29, 2001 budget,[78] when exploration activity in Québec was in steep decline.

Unlike the situation at that time, exploration expenditures in Québec are growing strongly, to such a degree that it is advisable to change certain rates of the tax credit.

78 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2001-2002 – Additional Information on the Budgetary Measures*, Section 1, p. 50.

The tax credit rates available to corporations that develop no mineral resource, oil or natural gas well[79] for which eligible expenses relating to mining resources, oil or natural gas will be reduced by 10 percentage points, while the rate of the tax credit available to such corporations regarding eligible expenses relating to other natural resources (cut stone) will be reduced by five percentage points.

The tax credit rates available to other corporations regarding eligible expenses relating to mining resources, oil or natural gas and other natural resources (cut stone) will be reduced by five percentage points.

The tax credit rates available to qualified corporations regarding eligible expenses relating to renewable energy and energy savings will not be changed.

Accordingly, the new rates applicable are as shown in the following table.

TABLE 9

Rates of the refundable tax credit for resources after reduction
(per cent)

Tax credit regarding eligible expenses	Corporations not operating any mineral resource or oil or gas well[(1)]	Other corporations
– relating to mining resources, oil and natural gas		
▪ in the Mid-North or Far North	28.75	13.75
▪ elsewhere in Québec	25	10
– relating to renewable energy and energy savings	35	30
– relating to other natural resources (cut stone)	10	10

(1) These corporations must not be related to a corporation that develops a mineral resource or an oil or natural gas well.

❑ Increase in the tax assistance

An increase in the tax assistance granted by the refundable tax credit for resources will be available for corporations that wish to avail themselves of it.

Accordingly, an eligible corporation planning to incur exploration expenses in the mining, oil or gas field may claim an increase in the tax assistance in exchange for an option to the state to acquire an equity stake in the development. This option will be managed by Ressources Québec.

79 These corporations must not be related to a corporation that develops a mineral resource or an oil or natural gas well.

The increase in the tax assistance will consist of a rise in the rate of the refundable tax credit for resources regarding eligible expenses incurred after December 31, 2013. Accordingly, the rise in the rate of the tax credit corporations that develop no mineral resource, oil or natural gas well[80] may claim for eligible expenses relating to mining resources, oil and natural gas will be 10 percentage points, while the rise in the rate of the tax credit such corporations may claim for eligible expenses relating to other natural resources (cut stone) will be five percentage points.

The rise in the rate of the tax credit that other corporations may claim for eligible expenses relating to mining resources, oil and natural gas and other natural resources (cut stone) will be five percentage points.

❑ Application date

These changes will apply regarding eligible expenses incurred after December 31, 2013. Where eligible expenses incurred before January 1, 2014 are reasonably attributable to work carried out after December 31, 2013, such eligible expenses will be deemed incurred after that date.

3.10 Recognition of an eligible public research centre

A taxpayer who carries on a business in Canada can obtain a refundable tax credit for scientific research and experimental development (R&D) of 35% in relation to R&D activities, where such activities are carried out on his behalf, in Québec, by an eligible public research centre in the course of an eligible research contract that the taxpayer enters into with such a centre.

In this regard, it is the responsibility of the Minister of Finance to recognize a research centre as an eligible public research centre.

More specifically, to be recognized as an eligible public research centre for the purposes of this refundable tax credit for R&D, a research centre must demonstrate its capacity, in terms of human, physical and financial resources, to carry out R&D work on behalf of businesses. Accordingly, the employees of the centre must have the qualifications required to carry out R&D work awarded on a sub-contracting basis to the research centre, and the research centre must have premises and equipment that enable it to do the work in its field of expertise.

In addition, the research centre must obtain most of its financing from public funds.

Moreover, all research centres that the Minister of Finance has recognized as eligible public research centres must annually confirm with him that they satisfy the eligibility criteria mentioned above. This annual return relates to a calendar year and must be filed no later than the last day of February following such calendar year.

---

80 *Ibid.*

Lastly, an eligible public research centre must advise the Minister of Finance as soon as a change occurs, regarding human, physical or financial resources, that could compromise its capacity to carry out R&D work on behalf of businesses or to satisfy the requirement relating to the source of its funding.

A new eligible public research centre will be recognized as an eligible public research centre, namely the Institut national de santé publique du Québec.

This recognition will apply regarding R&D carried out after December 31, 2011, under an eligible research contract concluded after that date.

4. MEASURES PERTAINING TO TOURISM

Tourism is an important sector for Québec's economy characterized in particular by the dated offering of the hotel sector in the regions and an appreciable decline in private investments. In its report submitted to the Minister of Tourism in May 2011, the Comité performance de l'industrie touristique provided an exhaustive portrait of this industry and highlighted the need to set up a comprehensive strategy to revive its growth.

The government intends to support entrepreneurs of the tourism industry that want to improve its performance through measures fostering increased private investment and the development of Québec's tourism potential.

4.1 Introduction of a refundable tax credit to foster the tourism accommodation offering

Given the competition that exists among tourism destinations, the accommodation sector is faced with many issues including that of quality and the need to stand out.

To consolidate the accommodation offering in Québec's regions, other than in the greater Montréal and Québec City regions, a temporary refundable tax credit to foster the modernization of the tourist accommodation offering will be introduced.

Briefly, this tax credit, which may reach $175 000 per taxation year, will be granted to corporations that own a hotel establishment, a tourist home, a resort, a bed and breakfast establishment or youth hostel located in Québec, outside the greater Montréal and greater Québec City regions, and that, prior to January 1, 2016, carry out renovation or improvement work on such an establishment.

❑ Determination of the tax credit

An eligible corporation that owns an eligible tourist accommodation establishment may receive, for a taxation year, a refundable tax credit for eligible expenditures incurred in the year to carry out eligible work.

The tax credit of an eligible corporation, for a taxation year, will be equal to 25% of the portion of its eligible expenditures incurred in the year to carry out eligible work that exceeds $50 000. However, where the taxation year of the eligible corporation has fewer than 51 weeks, the amount of eligible expenditures not giving rise to the tax credit, for the year, will be equal to $50 000 multiplied by the fraction obtained by dividing the number of days in such taxation year by 365.[81]

For the corporation's taxation year that includes the day of the Budget Speech, the amount of eligible expenditures not giving rise to the tax credit, for the year, will be equal to $50 000 multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that follow the day of the Budget Speech by 365.

81 This rule will not apply for the corporation's taxation year that includes the day of the budget speech nor that including January 1, 2016.

Similarly, for the corporation's taxation year that includes January 1, 2016, the amount of eligible expenditures not giving rise to the tax credit, for the year, will be equal to $50 000 multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that precede January 1, 2016 by 365.

❑ Eligible corporation

For the purposes of the tax credit, an eligible corporation means, for a taxation year, a corporation, other than an excluded corporation, that satisfies the following conditions:

— during the taxation year, it carries on a business in Québec, has an establishment there and owns an eligible tourist accommodation establishment;

— for the taxation year or the taxation year preceding such taxation year, it has gross revenue of at least $100 000.

■ Excluded corporation

The expression "excluded corporation", for a given taxation year, means:

— either a corporation that is tax-exempt for the year;

— a Crown corporation or a wholly-controlled subsidiary of such a corporation;

— or a corporation the amount of whose assets shown in its financial statements submitted to shareholders, for the taxation year preceding the given taxation year or if the corporation is in its first fiscal period, at the beginning of such fiscal period, is less than $400 000.[82]

❑ Eligible tourist accommodation establishment

An eligible tourist accommodation establishment means, for a taxation year, an establishment, other than an excluded establishment, located in Québec, other than in one of the excluded regions, for which the Minister of Tourism has issued a classification certificate under the *Act respecting tourist accommodation establishments*,[83] valid for the year, and certifying that the establishment is included in one of the following tourist accommodation establishment categories:

— hotel establishments;

— tourist homes;

— resorts;

---

82 The assets of the corporation will be those shown in its financial statements submitted to the shareholders and prepared in accordance with generally accepted accounting principles or, where the financial statements have not been prepared in accordance with generally accepted accounting principles, that would be shown therein if such financial statements had been prepared in accordance with generally accepted accounting principles.

83 R.S.Q., c. E-14.2.

— bed and breakfast establishments;

— youth hostels.

For greater clarity, an establishment that belongs to one of the following tourist accommodation establishment categories will not be an eligible tourist accommodation establishment:

— rugged furnished lodgings;

— hospitality villages;

— educational establishments;

— camping establishments;

— outfitting establishments;

— other accommodation establishments.

A corporation that holds, for a taxation year, a valid classification certificate throughout the entire duration of the renovation or improvement work carried out during the year, will be deemed to hold a valid classification certificate for such taxation year.

A corporation whose certificate is suspended or cancelled will not hold a valid classification certificate for the period of suspension or as of the time the cancellation of the certificate comes into effect.

■ Excluded establishment

An establishment will be considered an excluded establishment if, prior to starting to carry out the eligible work, it is covered by:

— an expropriation notice or a notice of intent to expropriate;

— a reserve for public purposes;

— or advance notice of exercise of an hypothecary right registered at the rights publicity office or of any other procedure casting doubt on the corporation's ownership of the establishment.

■ Excluded regions

Excluded regions mean the Montréal census metropolitan area and the Québec census metropolitan area as described in the 2011 *Standard Geographical Classification* (SGC) published by Statistics Canada.[84]

---

84 The list of municipalities included in the metropolitan census areas of Montréal and Québec are found in: *Standard Geographical Classification (SGC)*, Volume 1, The Classification, 2011, 12-571-X in the catalogue, p. 107-109. This volume is available on the Statistics Canada website at http://www.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=12-571-X&lang=eng

The following tables list the municipalities that make up the Montréal census metropolitan area and the Québec census metropolitan area.

TABLE 10

Municipalities of the Montréal census metropolitan area

Baie-D'Urfé	L'Épiphanie[1]	Saint-Bruno-de-Montarville
Beaconsfield	Léry	Saint-Colomban
Beauharnois	Les Cèdres	Saint-Constant
Beloeil	Les Coteaux	Sainte-Anne-de-Bellevue
Blainville	L'Île-Cadieux	Sainte-Anne-des-Plaines
Boisbriand	L'Île-Dorval	Sainte-Catherine
Bois-des-Filion	L'Île-Perrot	Sainte-Julie
Boucherville	Longueuil	Sainte-Marthe-sur-le-Lac
Brossard	Lorraine	Sainte-Thérèse
Candiac	Mascouche	Saint-Eustache
Carignan	McMasterville	Saint-Isidore
Chambly	Mercier	Saint-Jérôme
Charlemagne	Mirabel	Saint-Joseph-du-Lac
Châteauguay	Montréal	Saint-Lambert
Coteau-du-Lac	Montréal-Est	Saint-Lazare
Côte-Saint-Luc	Montréal-Ouest	Saint-Mathias-sur-Richelieu
Delson	Mont-Royal	Saint-Mathieu
Deux-Montagnes	Mont-Saint-Hilaire	Saint-Mathieu-de-Beloeil
Dollard-des-Ormeaux	Notre-Dame-de-l'Île-Perrot	Saint-Philippe
Dorval	Oka	Saint-Placide
Gore	Otterburn Park	Saint-Sulpice
Hampstead	Pincourt	Saint-Zotique
Hudson	Pointe-Calumet	Senneville
Kahnawake	Pointe-Claire	Terrasse-Vaudreuil
Kanesatake	Pointe-des-Cascades	Terrebonne
Kirkland	Repentigny	Varennes
La Prairie	Richelieu	Vaudreuil-Dorion
L'Assomption	Rosemère	Vaudreuil-sur-le-Lac
Laval	Saint-Amable	Verchères
Lavaltrie	Saint-Basile-le-Grand	Westmount

(1) City and parish.
Source: Statistics Canada, *Standard Geographical Classifiation (SGC)*, p. 107 and 108.

TABLE 11

Municipalities of the Québec census metropolitan area

Beaumont	Sainte-Brigitte-de-Laval
Boischatel	Sainte-Catherine-de-la-Jacques-Cartier
Château-Richer	Sainte-Famille
Fossambault-sur-le-Lac	Sainte-Pétronille
Lac-Beauport	Saint-François-de-l'Île-d'Orléans
Lac-Delage	Saint-Gabriel-de-Valcartier
Lac-Saint-Joseph	Saint-Henri
L'Ancienne-Lorette	Saint-Jean-de-l'Île-d'Orléans
L'Ange-Gardien	Saint-Lambert-de-Lauzon
Lévis	Saint-Laurent-de-l'Île-d'Orléans
Neuville	Saint-Pierre-de-l'Île-d'Orléans
Notre-Dame-des-Anges	Shannon
Québec	Stoneham-et-Tewkesbury
Saint-Augustin-de-Desmaures	Wendake

Sources: Statistics Canada, *Standard Geographical Classification (SGC)*, p. 108 and 109.

❑ Eligible work

An eligible corporation's eligible work for the purposes of the tax credit is as follows:

— renovation,[85] reorganization,[86] improvement, conversion or expansion work on an eligible tourist accommodation establishment of the corporation;

— the work needed to restore the establishment's land as it was before the work described above was carried out.

85 Essentially, refurbishment work done to improve the appearance and functional nature of an establishment.

86 Reorganization work consists of altering the interior distribution of the rooms, openings and divisions of an establishment without increasing the floor space or air space.

Such work must relate to one or more of the following components of the eligible tourist accommodation establishment:

— the rooms, including bathrooms;

— dining rooms;

— interior facilities that constitute public areas;[87]

— the exterior structure of the building, in particular the facing, roofing, doors and windows.

Execution of the eligible work must be awarded by the eligible corporation to a contractor under the terms of an agreement entered into after the day of the Budget Speech and before January 1, 2016. At the time such agreement is entered into, the contractor must be a person or a partnership with an establishment in Québec, other than a person or partnership with which the corporation, a specified shareholder of the corporation or, where the corporation is a cooperative, a designated member of the cooperative is not at arm's length.

Where the execution of eligible work requires that a licence be issued under the *Building Act*,[88] the contractor to whom execution of the work has been awarded must, at the time of executing the work, hold an appropriate licence issued, as the case may be, by the Régie du bâtiment du Québec, the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec and, if necessary, hold the security.

In addition, the work must, if necessary, be executed in compliance with the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains.[89]

For greater clarity, work consisting of repair or maintenance work on an eligible tourist accommodation establishment will not be eligible work for the purposes of the tax credit. Such will be the case, for instance, of work whose purpose is to refurbish any existing part of an eligible tourist accommodation establishment following a break or defect (for instance, the sealing of crack in the foundation).

---

87 Including, in particular, the foyer, reception, rest areas, public toilets, bar, shops and meeting rooms.

88 R.S.Q., c. B-1.1.

89 R.R.Q., c. Q-2, r. 35. Introduced in 1987, the purpose of this policy is to provide adequate minimum protection for riverbanks, lakeshores, littoral zones and floodplains by restricting the structures, undertakings and works permitted there. The policy is applied in accordance with zoning and land use planning bylaws of the municipalities, which stem from the management plan of the regional county municipalities.

The following table shows the major eligible and ineligible work for the purposes of the tax credit.

TABLE 12

Major eligible and ineligible work

Major eligible work	Major ineligible work
– Work to expand the building, other than work done to install a swimming pool, hot tub, sauna, fitness room or health centre – Addition or replacement of sanitary fixtures (washbasin, toilet or bathtub-shower) – Addition or replacement of floor coverings – Addition or replacement of water pipes, electrical, heating, air conditioning or lighting systems – Replacement of the exterior siding, roofing, doors or windows of the building	– Landscaping, other than to restore the land to its condition prior to the eligible work – Refurbishment of access points (parking area, driveway, etc.), unless made necessary as a result of eligible work – Renovation of the kitchen, administration offices or laundry – Acquisition and installation of a swimming pool, hot tub or sauna – Installation of a fitness room or health centre – Work to expand the building or construct buildings to enable the installation of a swimming pool, hot tub, sauna, fitness room or health centre – Play equipment (interior or exterior) construction work – Work to build a shelter, shed or garage – Repair or maintenance work – Work pertaining to the components of the establishment used exclusively by the operator and his family

❑ Eligible expenditures

In general, for the purposes of the tax credit, the eligible expenditures of an eligible corporation, for a taxation year, will be equal to the expenditures incurred by the corporation during the taxation year provided they are attributable to the eligible work regarding an eligible tourist accommodation establishment of the corporation, without exceeding an annual limit of up to $750 000.

More specifically, the eligible expenditures of an eligible corporation, for a taxation year, will correspond to the lesser:

— of the total of the amounts representing:

  — the cost for the eligible corporation of the labour supplied by the contractor to carry out eligible work (excluding the goods and services tax (GST) and the Québec sales tax (QST) applicable thereto), for the year, provided the contractor holds a registration number assigned under the *Act respecting the Québec sales tax*,[90]

90 R.S.Q., c. T-0.1.

— the cost of acquisition for the eligible corporation of goods, that enter into the execution of the work (excluding, if applicable, the GST and the QST applicable thereto), for the year, provided such goods were acquired from the contractor or from a merchant[91] holding a registration number assigned under the *Act respecting the Québec sales tax* and, after completion of the work, they have either been incorporated into an immovable of the eligible tourist accommodation establishment, lost their individuality and ensure the utility of the immovable,[92] or have been, permanently, physically attached or joined to an immovable of the eligible tourist accommodation establishment – without however losing their individuality and being incorporated into the immovable – and ensure its utility; [93]

— of its eligible expenditure limit for the year.

An eligible expenditure incurred by an eligible corporation must have been paid at the time of claiming the tax credit from Revenu Québec.

■ Eligible expenditure limit

An eligible corporation's eligible expenditure limit, for a taxation year, will correspond to $750 000, unless it became associated with one or more other corporations during the taxation year. Where the eligible corporation becomes associated with one or more other corporations during its taxation year, the $750 000 eligible expenditure limit must be covered by a sharing agreement within the group of associated corporations.

An eligible corporation will have to enclose with its tax return for a taxation year the agreement allowing it to utilize an amount on account of eligible expenditure limit for the taxation year.

Where the taxation year of an eligible corporation has fewer than 51 weeks, its eligible expenditure limit for the year will be equal to its eligible expenditure limit otherwise determined for the year, multiplied by the fraction obtained by dividing the number of days of such taxation year by 365.

For the corporation's taxation year that includes the day of the Budget Speech, its eligible expenditure limit will be equal to its eligible expenditure limit otherwise determined for the year multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that follow the day of the Budget Speech by 365.[94]

---

91 At the time the purchase contract is entered into, the merchant must be a person or a partnership with an establishment in Québec, other than a person or partnership with which the corporation, a specified shareholder of the corporation or, where the corporation is a cooperative, a designated member of the cooperative is not at arm's length.

92 For example, building materials, rainwater gutters, lightning rods, doors and windows, sanitary appliances (washbasins, toilets, etc.), plumbing fixtures, electrical system, heating system, tiles, wallpaper, parquet flooring.

93 For example, wall lights and baseboard heaters, ceiling lights, ceiling fans and non-glued wall-to-wall carpeting.

94 This rule will not apply for the corporation's taxation year that includes the day of the budget speech nor that including January 1, 2016.

Similarly, for the corporation's taxation year that includes January 1, 2016, the eligible expenditure limit will be equal to its eligible expenditure limit otherwise determined for the year multiplied by the fraction obtained by dividing the number of days of the corporation's taxation year that precede January 1, 2016 by 365.

■ Deemed associated corporations

To prevent the rules on associated corporations, for the purposes of the tax credit, from being circumvented, where it is reasonable to consider that one of the main reasons for the separate existence of two or more corporations, in a taxation year, is to have an eligible corporation receive such tax credit for such year or to increase its amount for such year, such corporations will be deemed to be associated with each other during the year.

■ Government and non-government assistance

The amount of eligible expenditures, for a taxation year, must be reduced by the amount of any government assistance, any non-government assistance and any benefit or advantage, according to the usual rules.

❑ Other application details

Corporations that are members of a partnership may also benefit from the tax credit regarding eligible expenditures carried out by such partnership. In such a case, the assets of the partnership of which the corporation is a member, shown in its financial statements for its fiscal period ending in the taxation year of the corporation regarding which the tax credit is claimed, or, if the corporation is in its first fiscal period, at the beginning of such fiscal period, must not be less than $400 000.[95] In addition, the gross revenue of the partnership, for its fiscal period ending in the taxation year of the corporation that precedes the one regarding which the tax credit is claimed, or for the one ending in the taxation year of the corporation regarding which the tax credit is claimed, must be at least $100 000.

The eligibility of the work carried out and the expenditures incurred by a partnership will be determined, firstly, regarding the partnership as though it were a corporation.[96]

---

95 The assets of the partnership will be those shown in the financial statements of the partnership prepared in accordance with generally accepted accounting principles or, where the financial statements have not been prepared in accordance with generally accepted accounting principles, that would be shown therein if such financial statements had been prepared in accordance with generally accepted accounting principles.

96 For greater clarity, the eligible expenditures of the partnership, for a fiscal year, may not exceed its eligible expenditure limit for such period determined according to the rules otherwise applicable.

For the calculation of the tax credit of a member corporation of a partnership, for a taxation year, the eligible expenditures of the corporation for the year will include its share of the eligible expenditures of the partnership of which it is a member for the fiscal year of the partnership that ends in the taxation year of the corporation, based on its share of such partnership's income or loss for such fiscal year. Accordingly, the eligible expenditures of the corporation, for a given taxation year, including its share of the eligible expenditures of the partnership, may not exceed its eligible expenditure limit for the taxation year.

To receive this tax credit, for a taxation year, an eligible corporation must enclose with its tax return, for such year, a form prescribed by Revenu Québec indicating, in particular, the description of the work done and the goods acquired, their cost, the registration number assigned under the *Act respecting the Québec sales tax* to the contractor or to the merchant who sold the goods and, as the case may be, the number of the licence issued to the contractor by the Régie du bâtiment du Québec, the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec.

In the event that the eligible expenditures for which the tax credit was granted are reimbursed to an eligible corporation or to the partnership of which it was a member, in whole or in part, the tax credit granted for the amount thus reimbursed will be recaptured by means of a special tax.

❑ Application date

The refundable tax credit to foster the modernization of the tourist accommodation offering will apply regarding an eligible expenditure incurred after the day of the Budget Speech for eligible work done before January 1, 2016. However, work done in accordance with an obligation entered into no later than the day of the Budget Speech will not be considered eligible work.

Similarly, the goods that are part of the carrying out of the eligible work must be acquired after the day of the Budget Speech and before January 1, 2016. However, goods acquired in accordance with an obligation entered into no later than the day of the Budget Speech will not be considered as part of the carrying out of the eligible work.

4.2 Optional application of a $3 lodging tax

In 1996, the government set up a tourist partnership fund to strengthen and sustain tourist promotion and development in Québec. The fund is financed in part by a lodging tax applicable to each accommodation unit rented in a sleeping-accommodation establishment located in a tourist region of Québec that makes such a request to the government through its regional tourist association (RTA).

The revenues generated by this tax, after deducting the costs of its administration, are remitted to the participating regions and the amounts thus remitted are used in accordance with the terms and conditions agreed to in a memorandum of understanding between the Ministère du Tourisme and the RTAs of these participating regions.

Since April 1, 1997, RTAs that want the lodging tax to apply within their territory have been able to request that a specific tax of $2 per overnight stay be imposed or, since June 2, 2005, choose between the imposition of this specific tax or an *ad valorem* tax of 3% of the price of each overnight stay. The government allowed this second option to provide RTAs with greater financial support for their tourism development and promotion mission.

Currently, 20 of Québec's 22 RTAs receive revenue from the lodging tax and of these, only four have chosen the 3% *ad valorem* tax option that generated more revenue for them than the specific tax of $2 did earlier. However, in certain tourist regions, the application of the 3% *ad valorem* tax is not enough to achieve this objective.

In this context, to ensure that the RTAs in every tourist region of Québec receive adequate financial support to play their role in tourist development and promotion, the government is prepared to offer them a third option, namely the imposition of a specific tax of $3 per overnight stay.

Accordingly, the RTAs that ask the government to impose a lodging tax within their territory can henceforth indicate to it whether they prefer a tax of $2 or $3 per overnight stay, or a tax of 3% of the price of each overnight stay. As for the RTAs of the tourist regions where the specific tax of $2 or the *ad valorem* tax of 3% already applies, they will have to submit a new request to the government if they want this tax to be replaced by the $3 specific tax.

5. MEASURES PERTAINING TO CULTURE

The government, through the tax system, supports cultural sector enterprises in carrying out their projects. Such support, which makes a significant contribution to the sector's vitality and enables Québec's creators to stand out on the international stage is provided in particular through the tax credit for Québec film and television production, the tax credit for film production services and the tax credit for the production of performances.

To further support cultural sector enterprises, the 2012-2013 Budget Speech stipulates a variety of measures to foster their growth and influence.

5.1 Recognition of new key positions for the purposes of the tax relief allowed foreign film workers

The tax system allows tax relief to foreign workers who, according to the Société de développement des entreprises culturelles (SODEC), work as a producer, executive producer, director, artistic director, director of photography, music director, supervising editor or visual effects supervisor as part of an eligible foreign production.

For the purposes of this measure, to be considered an eligible foreign production, a production[97] must be recognized as an eligible production for the purposes of the refundable tax credit for film production services, provided the producer's position was assigned to an individual who, in fact, did not reside in Canada at the time such position was assigned to him.

The tax relief, which consists of a deduction, enables foreign workers holding a key or decision-making position as part of an eligible foreign production not to be taxed on the payments they receive for services provided in Québec in the course of such production.[98]

This preferential tax treatment is part of the government's efforts to encourage foreign producers to choose Québec not only as a location for filming, but also for carrying out postproduction work. Those efforts over the years, together with Québec's enviable reputation as a centre for creating special effects for film, is helping to increase the number of projects that can be carried out in Québec.

---

97 This may consist of a motion picture film, video tape or a set of episodes or broadcasts that are part of a series.

98 This deduction arises in the calculation of the taxable income of an individual who is deemed a resident of Québec for the reason that he stayed in Québec for one or more periods totalling at least 183 days in the year for which the deduction is claimed. In the opposite case, the deduction arises in the calculation of his income earned in Québec and his income earned in Canada.

To further encourage foreign productions to come to Québec, the *Act respecting the sectoral parameters of certain fiscal measures*[99] will be amended to stipulate that SODEC may also issue an eligibility certificate for the purposes of the deduction relating to a foreign worker holding a key position in a foreign production to an individual who works in the course of an eligible foreign production as assistant producer, assistant director, set designer, financial comptroller, accountant or assistant accountant, visual effects producer or visual effects coordinator.

An individual who holds such an eligibility certificate from SODEC regarding an eligible foreign production may benefit from the deduction for foreign film workers regarding the amounts received, during a given taxation year after 2011, for services provided or to be provided in Québec in the course of such production, if he satisfies the following conditions:

— he did not in fact reside in Canada at any time of the year;

— he encloses a copy of the eligibility certificate issued by SODEC with his tax return for the year.

Moreover, no amount will be deducted or withheld at source on account of income tax regarding any payment for services provided or to be provided in Québec that is made, after the day of the Budget Speech, to a foreign worker holding a position of assistant producer, assistant director, set designer, financial comptroller, accountant or assistant accountant, visual effects producer or visual effects coordinator in the course of an eligible foreign production, if such worker holds a valid eligibility certificate issued by SODEC regarding such production.

5.2 Broadening of the enhancement applicable to certain French-language film or television productions

The refundable tax credit for Québec film and television production applies to the labour expenditures incurred by a corporation that produces a Québec film. It generally corresponds to 35% of the qualified labour expenditures incurred to produce the film. However, the qualified labour expenditures giving rise to this tax credit may not exceed 50% of the production costs of the film so that the tax assistance cannot exceed 17.5% of such expenses.

Moreover, an enhanced 45% tax credit rate applies regarding labour expenditures relating to the production of French-language short, medium and feature films of fiction, excluding animation films, French-language single documentaries and French-language youth productions, including animation films.

Accordingly, under the existing rules, a short, medium or feature-length animation film cannot qualify for the enhancement applicable regarding certain French-language productions unless it is intended for young people.

99 S.Q. 2012, c. 1.

So that the tax treatment applicable to animation productions no longer depends on their target audience, the sectoral parameters of the tax credit for Québec film and television production[100] will be changed so that feature-length, medium and short animated films of fiction are eligible for the enhancement applicable to certain French-language productions, whether or not they are intended for young people.

This change will apply regarding a film or television production for which an application for an advance ruling or, in the absence of such application, a certificate application is submitted to the Société de développement des entreprises culturelles after the day of the Budget Speech.

5.3 Rise in the cap on the refundable tax credit for the production of performances regarding musical comedies

The refundable tax credit for the production of performances covers labour expenditures attributable to services provided for the production of qualified performances, i.e. a musical, drama or aquatic show, a comedy, mime, magic or circus show, or an ice show that constitutes a qualified performance. The tax credit is equal to 35% of the amount of qualified labour expenditures, which are limited, however, to 50% of the production costs of the performance.

Furthermore, the tax credit, for a qualified performance, may in no event exceed $750 000.

A qualified corporation that intends to claim, regarding a performance, the refundable tax credit for the production of performances must, under the sectoral parameters of this tax credit,[101] obtain, for each of the following periods, a favourable advance ruling, as the case may be, and a certificate from the Société de développement des entreprises culturelles (SODEC) certifying that the performance is recognized as a qualified performance:

- the period covering the pre-production of the performance until the end of the first full year after its first performance before an audience;
- the period covering the second full year after its first performance before an audience;
- the period covering the third full year after its first performance before an audience.

Since this tax credit was introduced in 1999, the number of Québec productions of musical comedies has risen significantly. However, the production costs for this type of performance are high.

Accordingly, to further support the creation of musical comedies, which are performances with more ambitious budgets, the cap on the tax credit for the production of performances will be increased with respect to musical comedies.

100 *Act respecting the sectoral parameters of certain fiscal measures,* Appendix H, sec. 3.16 to 3.19.

101 *Act respecting the sectoral parameters of certain fiscal measures,* Appendix H, chapter 7.

More specifically, the tax legislation will be amended to stipulate that the refundable tax credit for the production of performances, regarding a qualified performance that is a musical comedy, may not exceed $1.25 million.

Moreover, the sectoral parameters of the tax credit for the production of performances will be changed to stipulate that the favourable advance ruling and the certificate issued by SODEC, certifying that the performance is recognized as a qualified performance, must mention, as the case may be, that the performance is a musical comedy.

This amendment will apply in relation to a performance one of whose three eligibility periods is not completed on the day of the Budget Speech.

5.4 Introduction of a tax credit for the production of multimedia environments or events staged outside Québec

Québec's tax system supports the development of cultural industries through a variety of refundable tax credits. Currently, these tax credits in the cultural field support the activities of Québec companies operating in particular in the fields of film, television, performances and records, providing these companies with stable base funding that allows them to thrive in Québec and elsewhere.

Over the past few years, new services relating to cultural activities or events have given rise to Québec companies that have quickly earned an international reputation. These companies, which make use of multimedia technologies and interactivity with the audience are excluded from the application of cultural tax credits because the scope of these credits is limited to their target fields. Accordingly, to support the growth potential of these companies internationally, a new refundable tax credit for the production of multimedia environments or events staged outside Québec with two fields of application will be implemented on a temporary basis.

An eligible corporation may accordingly, under certain conditions, claim a refundable tax credit equal to 35% of eligible labour expenditures it incurs to carry out an eligible production. However, the labour expenditures giving rise to this tax credit may not exceed 50% of production expenses. In addition, the tax credit allowed regarding a production will be limited to $350 000.

For the purposes of the tax credit for the production of multimedia environments or events staged outside Québec, a production consists either of an event staged in an entertainment venue, or of a multimedia event carried out under a contract entered into with a person who does not have an establishment in Québec.

❑ Eligible corporation

For the purposes of the tax credit for the production of multimedia environments or events staged outside Québec, an “eligible corporation” for a taxation year means a corporation that, in the year, has an establishment in Québec and carries on a business there consisting in particular of carrying out an eligible production. However, the following corporations may not claim this tax credit for a year:

— a corporation that, any time during the year or the 24 months preceding it, is controlled, directly or indirectly, in any way whatsoever, by one or more persons that do not reside in Québec;

— a corporation that would, at any time of the year or the 24 months preceding it, be controlled by a given person if each share of the capital stock of the corporation that is owned by a person not resident in Québec belonged to such given person;

— a corporation that is exempt from tax for such year, or is controlled, directly or indirectly, in any way whatsoever, by one or more persons exempt from tax at any time whatsoever during such year.

❑ Eligible production

A multimedia environment or event may give rise to the tax credit for the production of multimedia environments or events staged outside Québec provided the Société de développement des entreprises culturelles (SODEC) has issued a certificate[102] in its regard indicating that the multimedia environment or event, as the case may be, constitutes an eligible production for the purposes of such measure. This certificate may be issued if the following criteria are satisfied:[103]

— the multimedia environment or event, as the case may be, presents an educational or cultural experience and is staged for entertainment rather than advertising purposes;

— in the case of an event, it is staged in an entertainment venue located outside Québec;

— in the case of a multimedia environment, it is carried out under a contract covering the design and production of a multimedia environment to be staged outside Québec reached with a person who does not have an establishment in Québec and with whom the corporation staging the multimedia environment is at arm’s length;

---

102 As is the case with most tax credits in the cultural field, the certificate will consist of a favourable advance ruling or a valid certificate.

103 The sectoral parameters will be found in the *Act respecting the sectoral parameters of certain fiscal measures*.

— a minimum of 75% of the production expenses of the multimedia environment or event, as the case may be, other than the remuneration paid to the persons holding the positions shown in the point grid given below, is paid:

  — either to individuals who resided in Québec at the end of the calendar year that preceded the one during which the production work on the multimedia environment or event, as the case may be, started,

  — or to corporations that had an establishment in Québec during the calendar year;

— the multimedia environment or event obtains a minimum of five points out of nine according to the point grid shown below regarding the personnel that hold creative positions as part of the production of the multimedia environment or event, as the case may be.

TABLE 13

Point grid for creative personnel

Creative personnel	Point awarded
Designer	1
Environment designer	1
Graphics designer	1
Lighting designer	1
Programmer	1
Project and content manager – audiovisual and sound	1
Scriptwriter	1
Set designer	1
Writer	1

To determine the number of points a multimedia environment or event obtains under this point grid, the following rules will apply:

— a point will be awarded for a position shown in the point grid only if the individual who holds it completely resides in Québec at the end of the calendar year preceding the one during which the production work of the multimedia environment or event, as the case may be, started;

— where one individual holds more than one position shown in the point grid, the point will be awarded for each of these positions he holds only if he resides in Québec at the end of the calendar year preceding the one during which the production work of the multimedia environment or event, as the case may be, started;

— where more than one individual holds a position shown in the point grid, the point will be awarded for this position if at least half of these individuals reside in Québec at the end of the calendar year preceding the one during which the production work of the multimedia environment or event, as the case may be, started.

An entertainment venue means a place or premises where an event or an exhibit will be staged and without restricting the generality of the foregoing, includes a museum.

❑ Eligible labour expenditures

For the purposes of this tax credit, the eligible labour expenditures of a corporation, for a taxation year, regarding an eligible production consist of all the following amounts, provided they are reasonable in the circumstances:

— the wages and salaries directly attributable to the carrying out of the eligible production that the corporation incurs in the year,[104] after the day of the Budget Speech but before January 1, 2016, and that relate to services provided in Québec by an eligible employee in relation to a position shown in the point grid;

— the portion of the remuneration, other than a wage or salary, that the corporation incurs in the year, after the day of the Budget Speech but before January 1, 2016, that is directly attributable to the carrying out of the eligible production and that it pays in consideration for services provided in the course of carrying out the eligible production in relation to a position shown in the point grid:

  — either to an eligible individual, provided such portion of the remuneration is reasonably attributable either to the delivery of such services personally rendered in Québec by such individual, or to the wages of the individual's eligible employees who rendered such services in Québec,

  — to a corporation that has an establishment in Québec and is not a corporation mentioned in the following subparagraph, provided such portion of the remuneration is reasonably attributable to the wages of the eligible employees of such corporation who rendered such services in Québec,

  — to a corporation that has an establishment in Québec, all of whose issued capital stock, except qualifying shares, belong to an eligible individual and whose activities consist chiefly in supplying such services by such individual,

104 In addition, as is the case with all tax credits in the cultural field, where the taxation year (“given year”) for which a corporation claims a tax credit for an eligible production is the one during which an application for an advance ruling or, in the absence of a favourable advance ruling, for a certificate application is submitted to SODEC regarding the production, the eligible labour expenditure may include a labour expenditure incurred in a year prior to the given year.

— or to a partnership that carries on a business in Québec and has an establishment there, provided that such portion of the remuneration is reasonably attributable either to the delivery of such services provided in Québec by an eligible individual who is a member of the partnership, or to the wages of the partnership's eligible employees who provided such services in Québec.

To this end, the expressions "eligible employee" and "eligible individual" mean an individual who resides in Québec at any time of the calendar year during which he provides services in the course of carrying out the eligible production.

In addition, to be included in the calculation of the eligible labour expenditure of a corporation for a taxation year, an amount incurred in the year must have been paid at the time the corporation files the prescribed form containing the prescribed information in which it claims the tax credit for the production of multimedia environments or events outside Québec.

If applicable, the eligible labour expenditure must be reduced by the amount of any government or non-government assistance, as well as any benefit or advantage that the corporation receives, is entitled to receive or may reasonably expect to receive in its regard.

For greater clarity, the tax legislation will stipulate that the labour expenditures incurred for the promotion of the production cannot give rise to the tax credit.

❑ Eligible production expenses

The eligible production expenses of a corporation, for a taxation year, regarding an eligible production of an event staged in an entertainment venue consist of the following items, provided they are reasonable in the circumstances:

— the portion of production expenses, other than the production fees and administration expenses, provided they are included in the cost of production, the cost or capital cost, as the case may be, of the event or of a property acquired for the production of the event;

— the production fees and administration expenses.

In addition, production expenses may include a portion of the cost of using a given property belonging to the corporation and used by it in the course of the production of the event according to the usual terms and conditions.[105]

However, in the case of the production of a multimedia environment, the eligible production expenses of a corporation for a taxation year may not exceed 75% of the consideration the corporation received in the course of execution of the contract.

105 Such portion corresponds to the portion of the capital cost allowance of the given property, for a taxation year, determined according to generally accepted accounting principles, relating to the use made of such given property, in such year, in the course of staging the eligible production.

If applicable, eligible production expenses must be reduced by the amount of any government or non-government assistance, as well as any benefit or advantage that the corporation receives, is entitled to receive or may reasonably expect to receive in its regard. It will also be stipulated that the amount of a benefit attributable to production expenses will include the portion of the proceeds of disposition of a given property used in the course of the eligible production that was included in its production expenses.

For greater clarity, the tax legislation will stipulate that the production expenses incurred for the promotion of the production may not be included in calculating them.

❑ Determination of the tax credit

The tax credit that a corporation may receive, for a taxation year, regarding an eligible production will correspond to 35% of its eligible labour expenditures for the year. However, these expenditures may not exceed 50% of the eligible production expenses regarding the production of a multimedia environment or event, as the case may be. In addition, the tax credit an eligible production gives rise to may not exceed $350 000. In the case where the eligible production is co-produced, the $350 000 limit must be divided among each of the co-producers on the basis of their respective share in the production expenses.

❑ Other application details

To be entitled, for a taxation year, to the tax credit regarding an eligible production, the corporation that carries out such production must enclose with its tax return for such year a certificate issued by SODEC according to which the production satisfies the criteria stipulated in this regard.

If an amount relating to an expenditure included in the eligible labour expenditure regarding which a refundable tax credit was granted is reimbursed to an eligible corporation, in whole or in part, or if the certificate issued to the corporation for the purposes of this tax credit is revoked, the refundable tax credit granted will be recaptured by means of a special tax.

❑ Application date

This measure will apply regarding an expenditure incurred after the day of the Budget Speech but before January 1, 2016.

6. MEASURES FOSTERING THE CAPITALIZATION OF BUSINESSES

To encourage access to the financing Québec companies need for their development, Québec's tax system grants tax benefits to individuals who invest in such companies either directly through shares issued under the stock savings plan II (SSP II) or indirectly through labour tax-advantaged funds.

In this regard, improvements will be made to Québec's tax system to further foster the capacity of Québec companies to secure the capital needed for their growth. In addition, the rules applicable to labour funds will be adapted to enable them to play a greater role in the economy.

6.1 Introduction of a refundable tax credit pertaining to the costs of issuing shares as part of an initial public offering under the stock savings plan II

The SSP II was introduced in the April 21, 2005 Budget Speech[106] and was significantly improved in the March 19, 2009 Budget Speech.[107]

The SSP II is a plan that helps small corporations to raise capital. The capitalization of an eligible issuing corporation under this plan may result, in particular from an initial public issue of eligible shares of its capital stock in accordance with a receipt granted by the Autorité des marchés financiers (AMF).

Briefly, an eligible share is a common share with full voting rights, non-redeemable and without a fixed dividend that is acquired for money consideration,[108] while an eligible issuing corporation for the purposes of the SSP II is a corporation that, on the date of the receipt of the final prospectus issued by the AMF or, as the case may be, on the date of the prospectus exemption, satisfies the following conditions:

— it is a Canadian corporation whose assets are less than $200 million;

— its senior management is in Québec and more than one half of the wages paid to its employees in the course of its last taxation year ended prior to that date were paid to employees of an establishment located in Québec;

— throughout the preceding 12 months, it carried on a business and had at least five full-time employees who were not insiders or persons related to them;

— a maximum of 50% of the value of its assets consists of assets other than qualified investments.[109]

---

106 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2005-2006 – Additional Information on the Budgetary Measures*, April 21, 2005, Section 1, p. 62. At that time, the SSP II was called the SME Growth Stock Plan (Accro PME).

107 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2009-2010 – Additional Information on the Budgetary Measures*, March 19, 2009, p. A.58.

108 *Taxation Act,* R.S.Q., c. I-3, sec. 965.74.

109 *Ibid.,* sec. 965.90.

Briefly, the tax assistance stipulated by the SSP II enables an individual who resides in Québec on December 31 of a year to deduct, in calculating his taxable income, for the year, the adjusted cost[110] to him of an eligible share, in particular, if he acquired it during the year and included it in his SSP II no later than January 31 of the following year.[111] However, the deduction on this account may not exceed 10% of the individual's total income for the year.[112]

Moreover, a corporation must incur significant share issue expenses in an initial public offering (IPO) under the SSP II. To further facilitate a corporation's initial access to public capital, a refundable tax credit of 30% relating to the eligible issue expenses that an eligible corporation incurs in an IPO under the SSP II will be introduced.

❑ Eligible corporation

For the purposes of the refundable tax credit relating to the issue expenses of shares in an IPO under the SSP II, an eligible corporation means a corporation that qualifies as an eligible issuing corporation for the purposes of the SSP II.[113]

❑ Eligible issue expenses

The eligible issue expenses of an eligible corporation, for a taxation year, mean the expenses incurred by the corporation in the year or in a prior taxation year, in relation to a public issue of eligible shares of its capital stock in an IPO under the SSP II. These expenses will be the same as those that the corporation can otherwise deduct in calculating its income.[114] However, eligible issue expenses may not exceed the lesser of:

— 15% of the gross proceeds of the issue of shares;

— $3 000 000.

Moreover, the eligible issue expenses must be attributable to a public issue of shares for which a favourable advance ruling was issued by the Minister of Revenue before the receipt for the final prospectus was obtained, in accordance with the rules applicable to the SSP II.[115]

Lastly, the eligible issue expenses incurred by an eligible corporation, during a taxation year, must be reduced by the amount of any government assistance, any non-government assistance, and any benefit or advantage attributable to such expenses, according to the usual rules.

---

110 *Ibid.,* sec. 965.123.

111 *Ibid.,* sec. 965.126.

112 *Ibid.,* sec. 965.127.

113 *Ibid.*, sec. 965.90 and 965.94.

114 *Taxation Act, sec*. 147*.* For greater clarity, all of these expenditures – such as legal fees relating to the production and approval of the prospectus, accounting or auditing fees relating to the presentation of reports accompanying the prospectus or expenses for printing the prospectus, in particular – will be considered for the purposes of this tax credit despite the restriction on such expenditures stipulated in section 147.1 of the *Taxation Act*.

115 See note 108.

❑ Refundable tax credit

The refundable tax credit relating to the issue expenses of shares in an IPO under the SSP II that an eligible corporation may receive for a taxation year during which the shares of its capital stock are issued in an IPO under the SSP II, will correspond to 30% of the eligible issue expenses of the eligible corporation for such year.

Moreover, the eligible issue expenses of an eligible corporation must have been paid at the time the claim for the refundable tax credit is filed with Revenu Québec.

In addition, should the eligible issue expenses regarding which a tax credit was granted be repaid to an eligible corporation, in whole or in part, the tax credit granted regarding such expenses so repaid will be recaptured by means of a special tax, according to the usual rules.

❑ Application date

An eligible corporation may receive this refundable tax credit for eligible issue expenses it incurs, after the day of the Budget Speech, in relation to a public issue of eligible shares of its capital stock in an IPO under the SSP II that is covered, after such day, by a favourable advance ruling of the Minister of Revenue in accordance with the rules applicable of the SSP II.

For greater clarity, this refundable tax credit will be temporary since the SSP II ends December 31, 2014.

6.2 Measures pertaining to labour funds

For many years now, the Fonds de solidarité FTQ and Fondaction, the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi, have played a major role in Québec's venture capital industry. Each in its own way, these funds contribute to Québec's economic growth by creating and protecting jobs through investments in Québec companies.

The government supports the mission of labour funds by allowing them to collect capital enjoying a tax benefit consisting of a non refundable tax credit to individuals who become their shareholders. This tax credit provides workers with an incentive to save for retirement while participating in the development of Québec's economy.

To reflect the fact that the financing of labour funds is facilitated by granting a tax benefit, many measures have been taken over the years to govern the organization of these funds, to protect investors in these funds and to control the cost of the tax expenditure attributable to the government support accorded them.

❑ Changes to certain investment requirements imposed on the Fonds de solidarité FTQ

The *Act to establish the Fonds de solidarité des travailleurs du Québec* (F.T.Q.),[116] hereunder called “Act establishing the Fund”, sets various investment requirements with the effect, among others, of limiting the concentration of the Fund’s investments in one company and ensuring that the amounts collected thanks to tax assistance are used as a financing tool contributing to the growth of Québec entities.

Accordingly, the Fund is generally not authorized to make an investment in a company the result of which would bring the total amount of its investment in such company to more than 5% of its assets.

In addition, for each fiscal year, the eligible investments of the Fund must represent, on average, at least 60% of the average net assets of the Fund for the preceding fiscal year.

If this investment requirement, hereunder called the “60% requirement”, is not satisfied, the Fund is systematically limited in its capacity to issue shares during the following fiscal year.

To better adapt the investment requirements imposed on the Fonds de solidarité FTQ to the capital requirements of Québec companies and to enable the Fund to play a greater role in the economy, various amendments will be made to the Act establishing the Fund.

■ Streamlining of the investment diversification requirement

Currently, the Act establishing the Fund limits the concentration of investments in a company by stipulating that the Fund may not make an investment in a company[117] if such investment would bring the total amount of the Fund’s investment in such company to more than 5% of the Fund’s assets.

This percentage may be raised to 10% to enable the Fund to acquire the shares of a company doing business in Québec but which is not an eligible company.[118] In such a case, the Fund may not, directly or indirectly, acquire or hold shares with more than 30% of the voting rights that may be exercised in any circumstance attached to the shares of such company.

If the Fund already holds, directly or indirectly, shares with more than 30% of the voting rights, it has five years as of the date of the investment concerned to reduce its participation in the capital stock of such company to no more than 30%.

---

116 R.S.Q., c. F-3.2.1.

117 A company that owns securities enabling it in any event to elect a majority of directors of another company is deemed to form, with the latter, a single company.

118 An eligible business is a business carried on actively the majority of whose employees are residents of Québec and whose assets are less than $100 million or whose equity level is less than $50 million.

However, the investment diversification requirement does not apply where the investment in the company is made in guaranteed securities, such as a bill of exchange accepted or certified by a bank.

To enable the Fund to enhance its role in Québec's financial sector, the investment diversification requirement will be changed to stipulate that the percentage of concentration of the Fund's investments in a company may, regardless of the restriction concerning the acquisition or the holding of shares with voting rights, rise to 10% of its assets, if the company is a financial institution registered with the Autorité des marchés financiers or the Office of the Superintendent of Financial Institutions[119] and is part of a financial group recognized by the Minister of Finance.

This change will apply regarding an investment made after the day of the Budget Speech.

■ Recognition of investments made for high-value-added processing of wood

To steer forestry sector businesses towards the new niches of green construction, green energy and green chemistry, all supplied by the wood industry, an investment fund will be set up for high-value-added processing of wood.

This fund, a limited partnership called the Fonds Valorisation Bois, s.e.c., will have $170 million in capital over five years, of which the Fonds de solidarité FTQ will provide $75 million and the Québec government, $95 million.

To recognize the contribution of the Fonds de solidarité FTQ in the carrying out, by forestry sector businesses, of projects involving the secondary and tertiary processing of wood, the Act establishing the Fund will be amended to stipulate that investments[120] made in the Fonds Valorisation Bois, s.e.c. will be considered eligible investments for the purposes of the 60% requirement.

Investments that have been agreed and for which funds have been committed but not yet disbursed at the end of a given fiscal year will also be considered eligible investments, subject to the authorized limit of 12% of net assets at the end of the preceding fiscal year.

■ Increased recognition of the major investments made by the Fund

The investments eligible for the 60% requirement imposed on the Fonds de solidarité FTQ can include certain major investments that, in the view of the Minister of Finance, are of strategic value to Québec's economy.

---

119 This organization is constituted by the *Office of the Superintendent of Financial Institutions Act* (R.S.C., 1985, c. 18, 3rd Supp.).

120 Such investments must include no security or hypothec.

Investments currently considered major investments are those[121] made by the Fund in an entity – partnership or legal person – and consisting of an initial investment of at least $25 million or an additional investment, provided, on the one hand, that the Minister of Finance, after December 22, 2004, has recognized the strategic value of the initial investment and, if applicable, of the additional investment and, on the other, that these investments are not otherwise eligible investments.

Major investments that have been agreed and for which funds have been committed but not yet disbursed at the end of a given fiscal year are also considered eligible investments, subject to the authorized limit of 12% of net assets at the end of the preceding fiscal year that generally applies to non-disbursed investments.

However, major investments, including amounts incurred on that account, that can be included for the purposes of the investment requirement of a given fiscal year cannot exceed 5% of the net assets of the Fonds de solidarité FTQ at the end of the preceding fiscal year.

To better adapt the major investment category to the scope of the Fonds de solidarité FTQ's activities, this category will be changed to include investments made by the Fund other than as first acquirer for the acquisition of securities issued by a partnership or a legal person, provided, on the one hand, that the strategic value of such acquisition is recognized by the Minister of Finance and, on the other, that such investments cannot be considered as investments otherwise eligible.

However, for a fiscal year of the Fund that following the one during which it acquired for the first time, other than as first acquirer, securities of a given entity for which the strategic value of the acquisition has been recognized by the Minister of Finance, the investments made by the Fund for the acquisition of such securities will be eligible investments only if an amount of at least $25 million was disbursed by the Fund for the acquisition of such securities no later than the end of the fiscal year following the one during which the strategic value of the acquisition of such securities was recognized.

Moreover, the maximum share of the net assets of the Fund that may be allocated to major investments for the purposes of the 60% requirement for a given fiscal year will rise from 5% to 10% of its net assets at the end of the preceding fiscal year.

These changes will apply to any fiscal year of the Fonds de solidarité FTQ beginning after May 31, 2011.

■ Change to the calculation rules of the 60% requirement

For each fiscal year, the eligible investments of the Fund must represent, on average, at least 60% of the average net assets of the Fund for the preceding fiscal year.

121 For greater clarity, such investments must include no security or hypothec.

Briefly, the average eligible investments for a given fiscal year correspond to the result of the division by two of all the eligible investments of the Fund at the beginning of the fiscal year, the eligible investments of the Fund at the end of such year and the amount of the disinvestments recognized for the fiscal year and those recognized for the preceding fiscal year.[122]

In addition, for a fiscal year of the Fund beginning after May 31, 2007 and ending no later than May 31, 2012, an amount, in lieu of temporary restatement, is added to the average eligible investments otherwise determined. This restatement, allowed to reflect in particular the accumulated losses in value further to the bursting of the stock market bubble in the early 2000s and disinvestments, has enabled the Fund to restore, in less than five years, a level of investment sufficient to satisfy the 60% requirement despite the volatility on financial markets.

While market volatility is not a new phenomenon, the resulting fluctuations may, because of the Fund's size, make it more difficult to manage the 60% requirement since the latter does not recognize efforts made earlier to maintain a high level of eligible investments.

Accordingly, the terms and conditions for the determination of average eligible investments will be changed. More specifically, average eligible investments must, for a fiscal year of the Fund beginning after the day of the Budget Speech, be determined according to the following formula:

$$\left[\frac{A + B + C + D}{2}\right] + E$$

For the application of this formula to a given fiscal year:

— the letter A represents the amount of the Fund's eligible investments at the beginning of the fiscal year;

— the letter B represents the amount of the Fund's eligible investments at the end of the fiscal year;

— the letter C represents the excess, over an amount equal to 2% of the Fund's average net assets for the preceding fiscal year, of an amount representing the total eligible investments already made by the Fund for which there has been a disinvestment during the fiscal year;

— the letter D represents the amount determined in accordance with the letter C for the preceding fiscal year;

122 The amount of recognized disinvestments for a given fiscal year corresponds to the excess, over 2% of the Fund's average net assets for the preceding fiscal year, of the total of the eligible investments previously made by the Fund that were disinvested during the fiscal year.

— the letter E represents the amount designated by the Fund for a fiscal year, up to the lesser of $500 million and the amount obtained according to the following formula:[123]

$$(F_{A-1} – G_{A-2}) + \left[(F_{A-2} – G_{A-3}) – \left[E_{A-1} – (F_{A-3} – G_{A-4}) \right] \right]$$

in which:

— subscript A refers to the Fund's fiscal year,

— the letter F represents, for a fiscal year, the Fund's average eligible investments calculated without taking the letter E into account,

— the letter G represents, for a fiscal year, 60% of the Fund's average net assets.

❑ Increase in the annual issuance limit temporarily imposed on Fondaction

As part of its mission, Fondaction invests in companies undergoing a participative management process as well as in social economy companies – i.e. cooperatives or non-profit organizations. It also supports companies that demonstrate concern for the environment and more sustainable development.

To enable Fondaction to achieve an optimal level of capitalization so that it can pursue its mission, it was announced, in the 2009-2010 Budget Speech, that the rate of the tax credit for the acquisition of a class "A" or class "B" share or fraction of such share issued by Fondaction, hereinafter called "eligible share", would be temporarily increased to 25% for any eligible share acquired after May 31, 2009 and no later than the date on which ends the fiscal year at the end of which Fondaction first reaches a level of capitalization of at least $1.25 billion.

However, for a fiscal year included in the period preceding the time an optimal level of capitalization is reached, all the amounts each of which is an amount paid for the purchase as first acquirer of an eligible share[124] may not exceed, on average, $150 million.

Once the level of capitalization has reached at least $1.25 billion, the rate of the tax credit applicable to the issue price paid for shares issued by Fondaction must be reduced from 25% back to 15%.

123 For greater clarity, where an amount calculated using a formula in parentheses or brackets is less than zero, such amount will be deemed equal to zero.

124 For greater clarity, an amount paid for the purchase of a share or fraction of a share includes only the issue price paid for such share or fraction of a share.

To enable Fondaction to more quickly reach an optimal level of capitalization that will enable it to invest more in Québec companies as a partner of the social economy and sustainable development, to reduce its operating costs in relation to its assets and better diversify its portfolio, the limit applicable to the capital that Fondaction may collect over its next three fiscal years by means of a 25% tax credit will be raised.

The following table shows, for each of the first three fiscal years of Fondaction beginning after May 31, 2012, the maximum amount it is authorized to collect on account of all of the amounts each of which is an amount paid to purchase an eligible share as first acquirer.

TABLE 14

Limit applicable to issues of Fondaction shares

Fiscal year	Maximum amount authorized
June 1, 2012 to May 31, 2013	$175 million
June 1, 2013 to May 31, 2014	the total of $200 million and the excess of $175 million over the amount of capital collected during the fiscal year ending May 31, 2013
June 1, 2014 to May 31, 2015	the total of $225 million and the excess of the maximum amount authorized for the fiscal year ending May 31, 2014 over the amount of capital collected during that year

For greater clarity, in the event where, at the end of a given fiscal year, the amount of capital collected for such year exceeds the maximum amount authorized for the year, Fondaction will have to pay the Minister of Revenue, no later than the 90th day following the end of such fiscal year, a tax equal to 25% of such excess amount.

Moreover, given that, thanks to the increase in the limit applicable to its issues for its next three fiscal years, Fondaction will be able to achieve an optimal level of capitalization, the rate of the tax credit applicable to the issue price paid for any eligible share acquired after May 31, 2015 will be brought back to 15%.

7. MEASURES PERTAINING TO COOPERATIVES

Cooperatives are an integral part of Québec's social and economic landscape. They are major players in the economy and are present in a large number of activity sectors. In the agri-food and forest sectors, which are, apart from the financial sector, the largest cooperative sectors based on sales and number of jobs, cooperatives are particularly active in the regions where they conduct almost all their production and processing operations.

Cooperatives, other than personal or financial services cooperatives, are sustained in their development project and their capitalization by two fiscal measures: the Cooperative Investment Plan and the patronage dividend tax deferral mechanism.

The Cooperative Investment Plan, implemented in 1985, is designed to increase, through a tax incentive, the permanent capitalization of certain categories of cooperatives and federations of cooperatives that need members' equity for their development.

The patronage dividend tax deferral mechanism, for its part, introduced in 2002, is designed to encourage members of certain categories of cooperatives and federations of cooperatives to accept patronage dividends in the form of preferred units rather than money.

7.1 Changes to certain terms and conditions of the Cooperative Investment Plan

The Cooperative Investment Plan is designed to support the capitalization efforts of work cooperatives, shareholding workers cooperatives, producers cooperatives, agricultural cooperatives, or federations grouping such cooperatives as well as certain forms of solidarity cooperatives.

It supports these categories of cooperatives or federations of cooperatives by enabling them to issue securities accompanied by a tax benefit for the acquirers.

This tax benefit consists of a deduction in calculating the taxable income of members and workers of a cooperative or a federation of cooperatives who acquire qualifying securities issued by the cooperative or federation. This deduction may also be allowed for workers employed by certain partnerships of which a cooperative or a federation of cooperatives is a member or by certain subsidiaries controlled by a cooperative or a federation of cooperatives.

Generally, the deduction allowed is equal to 125% of the acquisition cost of the qualifying security, determined without taking into account borrowing expenses and other expenses inherent in its acquisition.

To ensure a degree of permanence of the capital collected, issued qualifying securities are neither redeemable nor repayable until after the expiration of at least five years beginning the date they were issued. Where the minimum holding period is not satisfied, a special tax is generally applicable.

All cooperatives or federations of cooperatives that want to issue securities qualifying for the Cooperative Investment Plan must obtain a qualification certificate from the Minister of Economic Development, Innovation and Export Trade.

To ensure that the support for capitalization is directed to the cooperatives or federations of cooperatives that genuinely need it and have a substantial presence in Québec, cooperatives or federations of cooperatives that wish to obtain such certificate must, besides belonging to a recognized category, satisfy criteria on, among other things, the territoriality of their activities, the location of their assets and, for some, their capitalization rate.

Various changes will be made to the terms and conditions of the Cooperative Investment Plan to improve its integrity and consistency and better take into consideration the business situation of certain categories of cooperatives.

❑ Measures applicable to all eligible categories of cooperatives or federations of cooperatives

■ Special tax relating to the early redemption of qualifying securities as part of a winding-up

According to the current rules, where a security issued under the Cooperative Investment Plan is, during a given year and before the expiration of five years beginning on the date it was issued, the object of a repayment or redemption, a special tax must generally be paid for the year.

Unless the redemption or repayment occurs within a process of block redemption or repayment of qualified securities issued by a cooperative or a federation of cooperatives, as the case may be, the special tax is payable by the person who held the security immediately prior to its redemption or repayment by the cooperative or federation of cooperatives.[125]

If the holder of the security immediately prior to its redemption or repayment is a partnership, the members of the partnership at the end of its fiscal period during which the redemption or repayment is carried out are ultimately required to pay the special tax determined for the taxation year in which such period ends, in proportion to their share of the income or loss of the partnership for the period.

Essentially, this tax, which corresponds to the lesser of 30% (25% in the case of an allowable redemption or repayment)[126] of the cost of acquisition of the security[127] and the amount paid by the cooperative or the federation of cooperatives for the redemption or repayment of the security, is reduced to the proportion represented by dividing the number of days within the five-year period during which the security was not held by the number of days within such five-year holding period.

---

125 This may be the individual who, in fact, acquired the security from the cooperative or the federation of cooperatives, a person to whom the security was passed on by reason of death or a trust governed by a registered retirement savings plan or a registered retirement income fund.

126 This consists of the redemption or repayment covered by section 7 of the *Cooperative Investment Plan Act* (R.S.Q., c. R-8.1.1), i.e., in general, provided the characteristics of the security so stipulate, a redemption or repayment made by a cooperative or a federation of cooperatives because of the death of the holder of the security or because of his resignation or exclusion as a member of the cooperative or federation of cooperatives or, if he is an employee thereof, because of the termination of his employment or his disability.

127 The cost of the security must be determined without taking into account borrowing expenses and expenses inherent in the acquisition.

Where the redemption or repayment of qualified securities issued within less than five years occurs as part of a process of block redemption or repayment, other than an excluded exchange operation,[128] the special tax is payable by the cooperative or the federation of cooperatives, since the decision to proceed with such redemption or repayment stems from its will or that of its members gathered in assembly.

This tax is equal, for each of the securities redeemed or repaid, to 30% of the amount that, in proportion to the number of days within the five-year period that the security is not held, represents the amount paid for its redemption or repayment.

While the decision to wind up a cooperative or a federation of cooperatives requires that a resolution be passed by a three-quarters majority of the votes cast by the members or representatives attending an extraordinary meeting convened for that purpose, it has become apparent that the payment by the cooperative or federation of cooperatives of a special tax for the block redemption or repayment of qualified securities in a case of winding-up could often occur to the detriment of members that had not acquired any qualified security for at least five years.

Accordingly, to ensure greater fairness among members of cooperatives or federations of cooperatives in the process of winding-up, the tax legislation will be amended to stipulate that, in the case of a block redemption or repayment of qualified securities in the course of a winding-up, the special tax relating to an early redemption will no longer be payable by the cooperative or federation of cooperatives, but by the persons holding the securities immediately prior to their redemption or repayment and by the members of a partnership where the securities are held by such an entity.

For greater clarity, the applicable rate for the purposes of the special tax will be 30% in such a case.

These changes will apply regarding a redemption or repayment made after the day of the Budget Speech.

■ Restriction concerning the payment of interest on preferred units issued under the Cooperative Investment Plan

Currently, under the terms of the *Cooperative Investment Plan Act*, for a preferred unit to be considered a qualified security, it must, when interest is stipulated to be paid, bear interest at a maximum rate determined by resolution of the board of directors of the cooperative or federation of cooperatives. In addition, such interest must be non-cumulative and payable annually at the time decided by the board of directors if the financial situation of the cooperative or the federation of cooperatives so allows.

---

128 An excluded exchange operation consists of a conversion of securities, a merger or reorganization of the social capital following which the qualifying securities are exchanged for securities with the same characteristics.

The wording of the Act does not expressly prevent payment of interest on a preferred unit by issuing another preferred unit satisfying all the conditions for being qualified for the Cooperative Investment Plan. However, while it satisfies the letter of the law, such a practice can easily flout its spirit since it allows a cooperative or a federation of cooperatives that finds it impossible to declare a money interest payment because of its financial situation to pay interest nonetheless.

To ensure the integrity of the plan, the definition of the expression "qualifying security" in the *Cooperative Investment Plan Act* will be amended to stipulate that:

— on the one hand, for a preferred unit issued after the day of the Budget Speech, when the payment of interest is stipulated, it will only be payable in money;

— on the other, the preferred unit will not have been issued in payment of interest declared after the day of the Budget Speech on a unit held by an eligible investor.

❑ Measures applicable to shareholding workers cooperatives

Shareholding workers cooperatives governed by the *Cooperatives Act*[129] are included in the categories of cooperatives that may be eligible for the Cooperative Investment Plan. However, unlike other categories of cooperatives for which the Cooperative Investment Plan is intended, shareholding workers cooperatives are not formed to actively carry on a business.

These cooperatives consist exclusively of natural persons for the purpose of acquiring and holding shares of the corporation that employs them and whose purpose is to provide work for their members[130] through the business carried on by the corporation. A shareholding workers cooperative thus enables its members, through it, to be collectively shareholders of the corporation that employs them.

Shareholding workers cooperatives are present in many sectors of activity but especially in corporations operating in the manufacturing, information technology, professional and technical services and commerce sectors. They are formed chiefly to meet the capital needs of the corporation where the members work, to facilitate entrepreneurial succession or to foster worker retention and greater productivity and competitiveness.

To reflect the features of shareholding workers cooperatives, the Cooperative Investment Plan stipulates that they are subject to certain special rules, including those concerning the special tax on excess capitalization.

129 R.S.Q., c. C-67.2.

130 Including their auxiliary members.

■ Changes to the rules relating to excess capitalization

The special tax on excess capitalization was put in place to prevent the tax assistance for the capitalization of shareholding workers cooperatives from being diverted from the primary purpose of this category of cooperatives, namely the acquisition and holding of shares in a corporation that employs their members.

Briefly, the tax legislation stipulates that a shareholding workers cooperative may be liable for a special tax where the total of the amounts paid regarding securities eligible for the Cooperative Investment Plan outstanding[131] at the end of a given year exceeds a limit generally set at 115% of the cost of any investment it holds, consisting of shares or eligible debentures,[132] in the corporation that employs its members.[133] The special tax thus payable is equal to 30% of such excess and may be recovered if the excess capital declines during a subsequent year.

On the other hand, no special tax is payable regarding the portion of an excess attributable to securities qualifying for the Cooperative Investment Plan that were outstanding immediately before the issuing, for the first time after March 30, 2004, of a qualification certificate authorizing a shareholding workers cooperative to issue securities qualifying for the Cooperative Investment Plan.

Similarly, to take into account the obligations arising from certain financial arrangements carried out prior to March 24, 2006, no special tax is payable regarding the portion of capitalization considered excessive up to an amount corresponding to 50% of the acquisition cost of the investments that a shareholding workers cooperative held in the corporation employing its members immediately prior to January 1, 2012 or, if earlier, the time immediately preceding the acquisition after March 23, 2006 of an investment in the corporation.

For a calendar year during which a shareholding workers cooperative holding a qualification certificate for the Cooperative Investment Plan issued or redeemed securities qualifying for this plan or acquired or alienated shares or eligible debentures in the corporation employing its members, a formula, hereunder called “adjustment formula”, must be applied to determine whether this cooperative must pay a special tax or can recover, in whole or in part, the special tax previously paid.

---

131 For greater clarity, these securities may have been issued in accordance with the *Cooperative Investment Plan Act* or under the Cooperative Investment Plan adopted under the *Act respecting the ministère du Développement économique, de l’Innovation et de l’Exportation* (R.S.Q., c. M-30.01).

132 Only a debenture that has been held continuously by the cooperative throughout a period of 120 days including the time when all its investments in the corporation must be determined may be considered an eligible debenture.

133 For a year prior to 2012, a cooperative constituted before March 24, 2006 could benefit from a limit equal to 165% of the cost of its investments for the purposes of calculating the special tax, unless it acquired, after March 23, 2006, a new investment in the corporation, in which case the applicable limit was lowered back to 115% of the cost of its investments as of the year of such acquisition.

Where the result of the adjustment formula applied for a given calendar year is positive, the cooperative is required to pay, no later than March 31 of the year following the given calendar year, an amount equal to the positive result thus obtained. However, where the result is negative, the cooperative may receive a refundable tax credit equal to the negative result thus obtained, for its taxation year in which the given calendar year ends or whose end coincides with such year.

While the special tax on excess capitalization of shareholding workers cooperatives is necessary to ensure the integrity of the Cooperative Investment Plan, it has become apparent that the level of capitalization considered excessive could restrict the development of such cooperatives and thus their participation in entrepreneurial succession projects.

Accordingly, various changes will be made to maintain the integrity of the Cooperative Investment Plan while taking into account the fact that shareholding workers cooperatives must essentially turn to their members for the cash resources needed to meet their financial obligations relating to interest costs, operating costs and redemption of units following the retirement or resignation of a member.

The first such change concerns how shareholding workers cooperatives can invest the amounts that must be set aside to meet their obligations. Since these amounts must in no event be invested in risky investment vehicles, the *Cooperative Investment Plan Act* will be amended to stipulate that, to be considered a qualified cooperative, a shareholding workers cooperative may only invest the amounts collected from its members, other than those it immediately transfers to the corporation, with a chartered bank or other financial institution authorized to receive deposits or in property described in paragraphs 2°, 3°, 4°, 5° and 10° of section 1339 of the Civil Code of Québec.[134]

The list of property in which amounts can be invested, which is identical to the one that applies to Capital régional et coopératif Desjardins and Fondaction where their statute of incorporation requires that they set up and maintain a reserve, allows investments in the following property:

— bonds or other evidences of indebtedness issued or guaranteed by Québec, another Canadian province or Canada, the United States of America or one of its member states, the International Bank for Reconstruction and Development, a municipality or school board in Canada or a fabrique in Québec;

— the bonds or other evidences of indebtedness issued by a legal person operating a public service in Canada and entitled to impose a tariff for such service;

— the bonds or other evidences of indebtedness secured by the undertaking, given to a trustee, by Québec, another Canadian province or Canada, to pay sufficient subsidies to meet the interest and capital on their respective due dates;

134 S.Q. 1991, c. 64.

- the bonds or other evidences of indebtedness of a corporation in the following cases:
  - they are secured by a first mortgage on an immovable or by securities presumed to be sound investments,
  - they are secured by a first mortgage on equipment and the corporation has regularly paid the interest on its borrowings over the last ten years,
  - they are issued by a corporation whose common or preferred shares are presumed sound investments;
- the securities of an investment fund or a private trust, provided that 60% of its portfolio consists of investments presumed sound and that the fund or the trust has satisfied the continuous information requirements defined by the *Securities Act*[135] for the last three years.

A shareholding workers cooperative that fails to satisfy, during the fiscal period ended in the calendar year preceding a year during which securities qualifying for the Cooperative Investment Plan are issued, the requirements relating to the investment of amounts it collects from its members may not, solely for this reason, be subject to the special tax equal to 30% of the proceeds of the issue that is normally payable by a cooperative that fails to satisfy, at the end of the fiscal period that ended in the calendar year preceding the year of issue, the conditions to be considered a qualified cooperative. However, the qualification certificate for the Cooperative Investment Plan of such a cooperative may be revoked.

These changes will apply to any fiscal period of a shareholding workers cooperative beginning after the day of the Budget Speech.

Changes will also be made to the terms and conditions of the special tax on excess capitalization. More specifically, for calendar year 2012 and subsequent years, where, during a given calendar year, a shareholding workers cooperative issues securities qualifying for the Cooperative Investment Plan, redeems securities qualifying for the Cooperative Investment Plan,[136] acquires shares or eligible debentures[137] of the corporation that employs its members or alienates such investments, the adjustment formula shown below will apply.

135 R.S.Q., c. V-1.1.

136 See note 131.

137 See note 132.

Adjustment formula

	Excess capitalization		*Protected surplus*		*Accumulated tax credits*		*Accumulated tax payable*
30%	The excess of the total of the amounts paid for securities qualifying for the CIP[1] outstanding at the end of the calendar year over 165% of the acquisition cost[2] of all the covered investments[3] held at the end of the year	–	The excess of the total amounts paid regarding securities qualifying for the CIP outstanding immediately prior to the issuing, for the first time after March 30, 2004, of a qualification certificate over the acquisition cost of all the covered investments[3] held at that time	+	The total of each of the amounts that the cooperative is entitled to obtain on account of the refundable tax credit for a prior calendar year further to the application of the adjustment formula	–	The total of each of the amounts that the cooperative was required to pay for a prior calendar year further to the application of the adjustment formula

A result less than zero is deemed equal to zero.

(1) The abbreviation CIP refers both to the Cooperative Investment Plan instituted under the *Cooperative Investment Plan Act* as well as to the Cooperative Investment Plan adopted under the *Act respecting the ministère du Développement économique, de l'Innovation et de l'Exportation*.
(2) For the purposes of the adjustment formula, the acquisition cost of an investment will be determined without including borrowing, brokerage, custody or other similar costs attached thereto.
(3) The expression "covered investments" means any investment held by a cooperative, consisting of shares or debentures, in the corporation that employs its members. However, only a debenture that has been held continuously by the cooperative throughout a period of 120 days including the time when all its investments in the corporation must be determined, may be considered a covered investment.

This new adjustment formula will enable all shareholding workers cooperatives, regardless of their date of constitution, to apply a rate of 165% to the cost of their investments for the purposes of calculating the special tax.

Moreover, given that the tax on excess capitalization can be fully recovered where the level of capitalization of a shareholding workers cooperative ceases to be considered excessive, a special measure will be put in place so that a shareholding workers cooperative whose winding-up extends over more than one year does not have to pay a tax on excess capitalization regarding the year in which it alienates its investments in the corporation employing its members, when such tax will shortly be fully recoverable.

More specifically, as of the calendar year during which a shareholding workers cooperative decides to wind up in accordance with the *Cooperatives Act*, such cooperative will no longer be subject to the tax on excess capitalization.

In addition, a shareholding workers cooperative may claim, for the calendar year during which it decides to wind up, a refundable tax credit equal to the excess of the total of each of the amounts that the cooperative was required to pay regarding a prior calendar year further to the application of the adjustment formula over the total of each of the amounts that the cooperative is entitled to obtain on account of the refundable tax credit for a prior calendar year further to the application of this formula.

■ Clarification concerning the consideration paid for the acquisition of qualifying securities

Currently, the *Cooperative Investment Plan Act* does not specify the nature of the consideration that must be paid for the acquisition of securities qualifying for the Cooperative Investment Plan. As a result, such consideration may just as well be in money or in kind.

Consideration in kind is justified where it consists of goods needed for carrying on the business of a cooperative. However, such consideration appears decidedly less appropriate for shareholding workers cooperatives. Indeed, despite the fact that they are deemed to carry on a business for the purposes of the *Cooperatives Act*, in reality shareholding workers cooperatives have no purpose other than to acquire and hold shares of a corporation employing its members.

In addition, the acquisition of securities qualifying for the Cooperative Investment Plan by a member of a shareholding workers cooperative for consideration in kind may even be incompatible with the objectives of the Cooperative Investment Plan if the consideration consists of shares of the corporation of which the cooperative is a shareholder since, in such a case, there is no improvement to the corporation's capitalization.

To maintain the integrity of the plan, the *Cooperative Investment Plan Act* will be amended to stipulate that a preferred unit issued by a qualified cooperative that is a shareholding workers cooperative may not be considered a security qualifying for the Cooperative Investment Plan unless it is acquired for consideration consisting solely of money.

This amendment will apply regarding a preferred unit acquired after the day of the Budget Speech under an agreement entered into after that day.

❑ Measure applicable to work cooperatives

Work cooperatives are cooperatives that bring together exclusively natural persons who, as workers, form an association to carry on a business in accordance with the rules of cooperative action and whose purpose is to supply work to their members and their auxiliary members.

Work cooperatives are present in many activity sectors, including the food, forest, ambulance services, professional and technical services and social services as well as the manufacturing sector in general.

Unlike most other categories of cooperatives for which the Cooperative Investment Plan is intended, work cooperatives and solidarity cooperatives that would be, were it not for their supporting members, work cooperatives do not have to show that their capitalization rate is less than 60% to avail themselves of the plan.

To restore fairness among the various categories of cooperatives that may turn to the Cooperative Investment Plan to obtain capital, the definition of the expression "qualified cooperative" contained in the *Cooperative Investment Plan Act* will be changed to stipulate that the eligibility criterion relating to the capitalization rate will also apply regarding any work cooperative and any solidarity cooperative that would be, were it not for its supporting members, a work cooperative, unless it is a cooperative most of whose employees are seasonal workers.

This amendment will apply regarding a cooperative that, after the day of the Budget Speech, submits an application for a qualification certificate authorizing it to issue securities qualifying for the Cooperative Investment Plan. It will also apply to a cooperative that, before the day following the day of the Budget Speech, submits an application for a qualification certificate if the Minister of Economic Development, Innovation and Export Trade has not handed down his decision regarding such application no later than the day of the Budget Speech.

For cooperatives that, on the day of the Budget Speech, hold an eligibility certificate for the Cooperative Investment Plan, the amendment will apply as of 2013.

7.2 Renewal of the patronage dividend tax deferral mechanism

To facilitate the capitalization of certain categories of Québec cooperatives or federations of cooperatives by encouraging their members to reinvest in them, the tax system allows the patronage dividends they attribute in the form preferred units, after February 21, 2002 and before January 1, 2013, to give rise to the patronage dividend tax deferral mechanism, which allows tax to be deferred until the units are disposed of.

Briefly, this mechanism enables a taxpayer who is a member either of a cooperative or a federation of cooperatives, or of a partnership that is a member of a cooperative or a federation of cooperatives to deduct, in calculating his taxable income, the amount of a patronage dividend attributed to him that consists of a preferred unit or, if he is a member of a partnership, his share of the patronage dividend, provided such cooperative or federation of cooperatives holds, for the taxation year regarding which the patronage dividend is attributed, a qualification certificate issued by the Minister of Economic Development, Innovation and Export Trade according to which it is a qualified cooperative for such taxation year.

Following the disposition of a preferred unit regarding which a qualified patronage dividend deduction was allowed, the taxpayer who benefited from such deduction must generally include, in calculating his taxable income, the amount previously deducted regarding such unit.

For the purposes of the patronage dividend tax deferral mechanism, work cooperatives, shareholding workers cooperatives, producer cooperatives, agricultural cooperatives or federations of such cooperatives as well as certain forms of solidarity cooperatives are considered eligible cooperatives, provided their senior management is carried out in Québec[138] and most of their members[139] are domiciled in Québec where the member is a natural person, or have an establishment in Québec in other cases.

138 Where the cooperative is a shareholding workers cooperative, the senior management of the corporation in which it holds shares and that employs its members must also be carried out in Québec.

139 For greater clarity, the expression “member” includes neither a support member (investor member), nor an auxiliary member (test member), nor an associate member (consumer member of an agricultural cooperative).

Since its implementation in 2002, the patronage dividend tax deferral mechanism has had a positive effect on the growth of cooperatives or federations of cooperatives that make use of it and on their capitalization rate. It has been observed that cooperatives and federations of cooperatives that make use of this mechanism have experienced stronger growth in sales, asset value and capitalization rate.

Accordingly, to continue to support the growth of cooperatives and federations of cooperatives, the patronage dividend tax deferral mechanism will be renewed for an additional period of ten years.

In addition, to facilitate access to this mechanism, any qualification certificate issued to a cooperative or federation of cooperatives by the Minister of Economic Development, Innovation and Export Trade after the day of the Budget Speech will be valid for an indeterminate period.

However, the Minister of Economic Development, Innovation and Export Trade may revoke the certificate issued to a cooperative or a federation of cooperatives where justified by information or documents brought to his attention.

Currently, the *Act respecting the sectoral parameters of certain fiscal measures*[140] stipulates that the Minister is justified in revoking such certificate, in particular where it was obtained on the basis of false information or where any of the conditions of its being issued is no longer satisfied.

To reflect the fact that a certificate will henceforth be valid for an indefinite period, such Act will be amended to stipulate that the Minister will also be justified in revoking a certificate where the cooperative or federation of cooperatives to which the certificate was issued omits to send him a document required for the purposes of such Act or fails to send him a copy of its annual report by the assigned deadline.

In addition, some situations in which a cooperative or a federation of cooperatives ceases to exist call for automatic revocation of the certificate.

More specifically, a certificate issued to a cooperative or a federation of cooperatives will be deemed revoked on the date of its dissolution or the date on which its winding-up was decided where, as the case may be, the cooperative or federation of cooperatives either is dissolved under the *Act respecting the legal publicity of enterprises*,[141] the *Cooperatives Act* or the *Canada Cooperatives Act*,[142] or decided to wind up in accordance with the *Cooperatives Act* or the *Canada Cooperatives Act*.

---

140 S.Q. 2012, c. 1.

141 R.S.Q., c. P-44.1.

142 S.C. 1998, c. 1.

Similarly, the certificate of a cooperative or a federation of cooperatives that is part of an amalgamation will be deemed revoked on the effective date of the amalgamation of which it is a part and that is, as the case may be:

- an ordinary amalgamation carried out in accordance with the *Cooperatives Act* or the *Canada Cooperatives Act*;
- an amalgamation by absorption carried out in accordance with the *Cooperatives Act* where the cooperative or federation of cooperatives is the one absorbed;
- an amalgamation with a legal person governed by Part III of the *Companies Act*[143] carried out in accordance with the *Cooperatives Act*;
- a vertical short-form amalgamation carried out in accordance with the *Canada Cooperatives Act* where the cooperative or federation of cooperatives is a subsidiary that is a wholly-owned cooperative or a federation of cooperatives;
- a short-form horizontal merger carried out in accordance with the *Canada Cooperatives Act* where the cooperative or federation of cooperatives is a subsidiary whose shares have been cancelled.

143 R.S.Q., c. C-38.

8. MEASURES PERTAINING TO TRUSTS

Inter vivos trusts are increasingly used in tax planning, in Québec and elsewhere, to reduce tax that individuals or corporations using them would otherwise have to pay. Accordingly, an individual taxed at the highest marginal rate may, by setting up an inter vivos trust, be taxed at a lower rate on part of the taxable income of the trust.

Moreover, in the course of tax audits, Revenu Québec has noted that rental income from certain immovable properties located in Québec and belonging to trusts that do not reside in Canada is not subject to any tax under the Taxation Act[144] and that some inter vivos trusts that did not reside in Canada have become residents of Canada, outside Québec, before disposing of their rental immovable properties located in Québec so that the taxable capital gain resulting from such disposition eludes Québec tax.

To remedy these situations, various amendments will be made to the tax legislation. Accordingly, the tax rate of an inter vivos trust will be changed to correspond to the highest applicable rate for the calculation of an individual's tax payable. An inter vivos trust that does not reside in Canada will become liable for Québec tax on its property income derived from the rental of immovable properties located in Québec. Lastly, where an inter vivos trust begins to reside in Canada, it will be deemed to dispose of its rental immovable properties located in Québec for proceeds of disposition equal to their fair market value.

8.1 Change to the tax payable by an inter vivos trust

According to the existing tax legislation, the tax payable by an inter vivos trust, other than a mutual fund trust or a specified investment flow-through trust, for a taxation year, corresponds to the greater of the tax on the taxable income of the trust for the year calculated according to the progressive tax rates used to calculate an individual's tax payable[145] or the tax on its taxable income for the year calculated at a rate of 20%.

The tax payable by a mutual fund trust, other than a specified investment flow-through trust, for a taxation year, corresponds to the greater of the tax on its adjusted taxable income for the year[146] calculated according to the progressive tax rates used to calculate an individual's tax payable or the tax on its adjusted taxable income for the year calculated at a rate of 20%.

144 R.S.Q., c. I-3.

145 The progressive rates of tax, for taxation year 2012, are 16% for the taxable income bracket not exceeding $40 100, 20% for the taxable income bracket in excess of $40 100 but not exceeding $80 200 and 24% for the taxable income bracket in excess of $80 200.

146 As stipulated in section 770 of the *Taxation Act*.

The tax payable by a specified investment flow-through trust, for a taxation year, corresponds to the greater of the tax on its adjusted taxable income for the year,[147] calculated according to the progressive tax rates used to calculate an individual's tax payable for such year or the tax on its adjusted taxable income for the year calculated at a rate of 20%.[148]

To prevent a taxpayer who has reached the highest taxable income bracket, by setting up an inter vivos trust, from benefiting from a lower tax rate on a portion of the trust's taxable income, the tax legislation will be amended so that the rate applicable for determining the tax payable by an inter vivos trust (including a mutual fund trust and a specified investment flow-through trust) corresponds to the highest rate applicable for the calculation of the tax payable by an individual, i.e. 24%.

This amendment will apply for taxation years of an inter vivos trust ending the day of the Budget Speech or after that day.

8.2 Changes to the taxation of trusts that are not residents of Canada

A trust that has not resided in Canada at any time of a taxation year is subject to Québec tax, for such taxation year, if it carried on a business in Québec or disposed of taxable Québec property during the taxation year or a prior taxation year. The Québec tax is then calculated on the trust's taxable income earned in Canada, which includes the income earned from the businesses the trust carried on in Canada and that is attributable to an establishment of the trust in Canada and the taxable capital gains resulting from the disposition of taxable Canadian property. The Québec tax payable by the trust corresponds to the tax thus calculated multiplied by the proportion obtained by dividing the trust's income earned in Québec by its income earned in Canada. The trust's income earned in Québec includes the income earned from the businesses the trust carried on in Canada and that is attributable to an establishment located in Québec and the taxable capital gains resulting from the disposition of taxable Québec property. The income the trust earned in Canada includes the items that make up the taxable income earned in Canada indicated above.

Where the income derived from the rental of an immovable property constitutes income from a business carried on by the trust and attributable to an establishment in Québec, the trust that is not resident in Canada is liable for Québec tax on the rental income derived from the immovable property as well as on the recaptured depreciation that may result from the disposition of the immovable property.

147 As stipulated in section 770.0.1 of the *Taxation Act*.

148 A specified investment flow-through trust may otherwise be held to pay the tax relating to specified investment flow-through entities under sec. 1129.71 of the *Taxation Act*.

However, Québec's tax legislation contains no provision subjecting a trust that is not resident in Canada to Québec tax on its income derived from the rental of an immovable property located in Québec if it constitutes property income. Such income is only subject to tax under the *Income Tax Act*,[149] even though it is connected to an immovable property located in Québec. However, where a corporation that is not a resident of Canada owns an immovable property located in Québec used primarily for the purposes of earning or producing gross revenue that constitutes rent, it is deemed to have an establishment in Québec and is thereby liable for Québec tax. It is required to pay Québec tax on its taxable income, including the income derived from the rental of the immovable property, on the basis of the proportion of its business done in Québec.

A trust that is not resident in Canada whose income derived from the rental of an immovable property located in Canada constitutes property income is subject to tax under Part XIII of the *Income Tax Act*[150] on the rent paid to it. However, it may elect to pay tax under Part I of the *Income Tax Act* on its property income derived from the rental of the immovable property[151] rather than the tax under Part XIII of such act and file a separate tax return, as through it were a person resident in Canada and such income constituted its sole source of income. In this case, the trust is required to add an amount[152] to the tax under Part I that it is otherwise required to pay and it may not claim the Québec abatement[153] regarding its income from property.

Moreover, a trust that does not reside in Canada and that disposes of an immovable property located in Québec is liable for Québec tax on the taxable capital gain resulting from such disposition while a trust residing in Canada that disposes of such an immovable property is liable for tax in its province of residence on the taxable capital gain resulting from such disposition.

In the course of tax audits, Revenu Québec has noted that some trusts not resident in Canada became residents of Canada outside Québec, prior to the disposition of their rental immovable property located in Québec so that the taxable capital gain derived from such disposition eludes Québec tax.

---

149 R.S.C., 1985, c. 1 (5th Supp.)

150 The tax under Part XIII of the *Income Tax Act* is calculated on the amount of rent paid or deemed paid by a person residing in Canada or deemed to reside in Canada, without any deduction. It is subject to withholding by the payer.

151 Such property income includes its portion of such income derived by a partnership of which it is a member.

152 This amount corresponds to 48% of the tax under Part I of the *Income Tax Act* that the trust is otherwise required to pay, multiplied the fraction obtained by dividing its income for the year other than income earned during the year in a province by its income for the year. In general, the income of a non-resident trust earned during the year in a province corresponds to its income for the year derived from carrying on a business and attributable to an establishment located in a province.

153 The Québec abatement corresponds to 16.5% of the tax under Part I of the *Income Tax Act* that the trust is otherwise required to pay for the year, multiplied by the fraction obtained by dividing its income earned in the year in Québec by its income for the year. In general, the income of a trust that is not resident in Canada earned during the year in Québec corresponds to its income for the year derived from carrying on a business and attributable to an establishment located in Québec.

With the objective of having inter vivos trusts that do not reside in Canada and that own rental immovable properties located in Québec participate in the financing of the state and to protect the integrity of Québec's tax base, amendments will be made to the tax legislation concerning the taxation of such trusts.

The tax legislation will be amended so that an inter vivos trust that does not reside in Canada is liable for Québec tax on its property income derived from the rental of immovable properties located in Québec. The tax rate applicable to such income will be set at 5.3% to reflect its taxation at the federal level. Such a trust will be required to file a tax return for each taxation year in which it owns such an immovable property, whether or not it has tax payable for the year.

The tax legislation will also be amended to stipulate that an inter vivos trust that does not reside in Canada but becomes a resident of Canada will be deemed to have disposed of its rental immovable properties before becoming a resident of Canada.

Lastly, to ensure payment of the Québec tax payable by an inter vivos trust following such deemed disposition, the trust will have to obtain a compliance certificate from Revenu Québec before disposing of a rental immovable property located in Québec that it owns when it changes residence. The acquirer of such an immovable property must have received a copy of the compliance certificate from the trust in order not to become liable for payment of this tax.

8.2.1 Taxation of specified trusts on their property income derived from the rental of specified immovable properties

The tax legislation will be amended so that a specified trust, for a taxation year, which, during the taxation year or a prior taxation year, owns a specified immovable property, or is a member of a partnership that owns a specified immovable property,[154] is required to pay a tax, at the rate of 5.3%, for the taxation year, on its property income derived from the rental of specified immovable properties for the year.

❑ Specified trust

The expression "specified trust", for a taxation year, means an inter vivos trust that did not reside in Canada at any time during the year and is not tax-exempt.

❑ Specified immovable property

The expression "specified immovable property" means an immovable property located in Québec[155] that is used mainly for the purpose of earning or producing gross revenue that constitutes rent.

154 For greater clarity, these amendments to the tax legislation will also apply to a specified trust that is a member of a partnership that itself is a member, directly or indirectly, through one or more other partnerships, of a partnership that owns a specified immovable property.

155 For greater clarity, this expression includes a right in such immovable property or an option on such immovable property.

❑ Property income derived from the rental of specified immovable properties

The property income derived from the rental of specified immovable properties of a specified trust, for a taxation year, will correspond to the excess of the total of its income from the rental of specified immovable properties for such taxation year (including its share of such income from partnerships of which it is a member), except to the degree that it is otherwise included in the income earned in Québec of the specified trust, over the losses from the rental of specified immovable properties for such taxation year (including its share of such losses from partnerships of which it is a member), except to the degree where they may be otherwise used in the calculation of income earned in Québec by the specified trust.[156]

Accordingly, the income of the trust from the rental of specified immovable properties, for a taxation year, will be part of its property income derived from the rental of specified immovable properties for the year to the degree that it does not constitute income from a business carried on in Canada by the trust and is attributable to an establishment in Québec. Similarly, the loss of the specified trust from the rental of a specified immovable property, for a taxation year, will reduce its property income derived from the rental of specified immovable properties for the year if it does not constitute a loss from carrying on a business in Canada by the specified trust that is attributable to an establishment in Québec. The same is true of the recaptured depreciation or the final loss resulting from the disposition of a specified immovable property.

The property income derived from the rental of specified immovable properties must be calculated separately from the income from other sources of the specified trust. Accordingly, a loss of the specified trust from the rental of a specified immovable property, for a taxation year, that constitutes a loss from property may not reduce its income earned in Québec from another source for the year.[157]

❑ Filing of a tax return

A specified trust will be required to file a tax return with Revenu Québec for each taxation year that it is, at any time of the year, the owner of specified immovable property or a member of a partnership that owns a specified immovable property, whether or not it has tax payable for such taxation year.

156 Assuming that the income earned in Québec of the trust otherwise calculated is sufficiently large to enable its full use.

157 In particular its income earned from a business it carried on in Canada that is attributable to an establishment in Québec and its taxable capital gains resulting from the disposition of taxable Québec property.

❑ Application date

These amendments to the tax legislation will apply to a taxation year ending the day of the Budget Speech or after that day. Where the taxation year of a specified trust includes the day of the Budget Speech, the tax that the trust is required to pay on its property income derived from the rental of specified immovable properties for the taxation year will be determined in proportion to the number of days of such taxation year that follow the day before that of the Budget Speech.

8.2.2 Deemed disposition of specified immovable properties

When an inter vivos trust begins to reside in Canada at a given time, its taxation year that would otherwise include the given time is deemed to end immediately before such time and a new taxation year is deemed to begin at that time. Such a trust, unlike a corporation in the same situation, is not deemed to dispose of its taxable Canadian property, including its immovable properties located in Québec, at fair market value, at the time immediately preceding the end of its taxation year.

The tax legislation will be amended to stipulate that an inter vivos trust that begins to reside in Canada at a given time will be deemed to dispose of at the time (called "time of disposition") immediately preceding the time that immediately precedes the given time, each specified immovable property it owns, for proceeds of disposition equal to the fair market value of the immovable property at the time of disposition.

Consequently, the inter vivos trust will be liable for Québec tax on the taxable capital gain and the recaptured depreciation that may arise from the deemed disposition, unless it is a tax-exempt trust.

The inter vivos trust will be deemed to acquire, at the given time, each specified immovable property that was deemed to have been disposed of at a cost equal to the proceeds of the disposition of the immovable property.

❑ Specified immovable property

The expression "specified immovable property" will be defined the same way as for the taxation of specified trusts on their property income derived from the rental of specified immovable properties.[158]

❑ Compliance certificate to be obtained before the disposition of a specified immovable property

The tax legislation will be amended so that an inter vivos trust that began to reside in Canada at a given time when it owned a specified immovable property and that plans to dispose of the specified immovable property is required to provide the Minister of Revenue with notice by means of a prescribed form.

158 See subsection 8.2.1.

Such notice must contain, among other things, the following information:

- a description of the specified immovable property that the trust plans to dispose of;
- the names and address of the potential acquirer;
- the residence of the trust at the time of the potential disposition of the specified immovable property;
- the date when the trust began to reside in Canada;
- a list of the specified immovable properties that the trust owned at the time it began to reside in Canada.

After receiving this notice, the Minister of Revenue will issue a compliance certificate to the trust and send a copy to the potential acquirer, after assuring itself of payment of the tax resulting from the deemed disposition or of the deposit of sufficient security to guarantee payment of such tax.

❑ Responsibility of the acquirer of a specified immovable property

To avoid becoming liable for the tax payable under the *Taxation Act* by an inter vivos trust following the deemed disposition of its specified immovable properties, the acquirer of a specified immovable property must:

- either have received a copy of the compliance certificate;
- or show that after having made reasonable enquiry, he had no reason to believe that the vendor was an inter vivos trust that began to reside in Canada at a given time when it was the owner of the specified immovable property.

Failing that, the acquirer of the specified immovable property will be liable for the tax payable under the *Taxation Act* by the inter vivos trust resulting from the deemed disposition of its specified immovable properties, up to 12% of its purchase price of the specified immovable propety.

❑ Application date

These amendments to the tax legislation will apply to an inter vivos trust that begins to reside in Canada at a given time as of the day of the Budget Speech.