Subject: Improvement to fiscal policy regarding employee benefits, introduction of a refundable tax credit for the renewal of the stock of taxi vehicles and other fiscal measures

This information bulletin describes two new measures deriving from an improvement to fiscal policy regarding employee benefits. The first such measure is designed to exempt from tax certain indemnities for meals and transportation paid to employees who work overtime, while the second introduces a tax exemption for the first $500 representing the value of gifts and rewards to employees.

This bulletin also makes public a measure to encourage the development of the cooperative sector allowing the deduction relating to the Cooperative Investment Plan (CIP) under the simplified tax system.

It also makes public the application details of the new refundable tax credit for the renewal of the stock of taxi vehicles and describes the application details of many other adjustments to existing fiscal measures concerning corporate taxes and consumption taxes.

Lastly, it sets out the position of the ministère des Finances du Québec concerning the measures made public in the federal Budget Speech of December 10, 2001 and the Department of Finance Canada news release 2001-121 of December 18, 2001.

For information concerning these matters, contact the Secteur du droit fiscal et de la fiscalité at (418) 691-2236.
The French and English versions of this bulletin are available on the ministère des Finances website at: www.finances.gouv.qc.ca

Paper copies are also available, on request, from the Direction des communications, at (418) 691-2233.
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1.  MEASURES CONCERNING INDIVIDUALS

1.1  Non-taxation of certain meal and transportation indemnities paid to employees working overtime

The tax legislation contains the principle under which, subject to an exception to the contrary, amounts that an individual must include in calculating his income from an office or employment include the value of board, lodging and other benefits he receives or enjoys because of or in the course of the office or employment he holds as well as the allowances he receives, including amounts he receives and whose use he need not justify, for personal or living expenses or for any other purpose.

Relying on this principle, which is one of the foundations of the calculation of income from an office or employment, the ministère du Revenu du Québec (MRQ) has always considered that the value of any indemnity paid to employees working overtime, to compensate them for meal and transportation expenses thus incurred, must be included in calculating their income, except to the degree that such value is excluded from the calculation in accordance with the Taxation Act.

The position of the MRQ, which applied generally, has been called into question by a recent unanimous decision of the Court of Appeal of Québec.\(^1\) By invoking the control measures exercised by the employer, the Court of Appeal has refused to treat the meal and transportation indemnities paid to employees working overtime as allowances. In addition, it has ruled that no benefit was conferred on the employees concerned by the payment of such indemnities and that, accordingly, the value of such indemnities need not be included in the calculation of their income.

Since the interpretation given by the Court of Appeal to many of the notions underlying the legislative principle mentioned above runs counter to fiscal policy, the legislation will be amended to stipulate the tax treatment that will apply to the various indemnities for meals and transportation that may be paid to employees working overtime.

First of all, the tax legislation will be amended to specify that in general, the amounts an individual must include in calculating his income from an office or employment will include the value of any indemnity for meals or transportation between the ordinary place of residence and the place of work that is paid to him under any form whatever, in particular as an allowance or refund, for overtime that he worked in the course of the duties of his office or employment.

\(^1\)  Le sous-ministre du Revenu du Québec v. Confédération des caisses populaires et d'économie Desjardins du Québec (file n° 200-09-002618-996).
Similarly, it will be specified that an individual must include in calculating his income from an office or employment any amount corresponding to the excess of the value of a meal or transportation service supplied to him for overtime worked in the course of the duties of such office or of such employment over any amount he paid in relation to such meal or such service.

However, to allow for the economic reality of the labour market where it is not uncommon for an employee to be asked to work overtime giving rise to meal or transportation expenses that would not otherwise have been incurred, certain exceptions will be made to the general rule to stipulate that in specific circumstances, no inclusion in the calculation of income from an office or employment will result from the payment of such expenses on behalf of the employee.

More specifically, when, because of overtime worked by an individual in the course of the duties of his office or his employment, an indemnity for meals is paid to him or a meal is supplied for him, no amount need be included in calculating his income from the office or employment in relation to such indemnity or such meal if the following conditions are satisfied:

— the overtime is worked at the request of the employer for a scheduled period of at least three consecutive hours;
— the overtime is infrequent or occasional in nature;
— the meal indemnity, if any, consists of a full or partial refund, upon submission of vouchers, of the meal expenses incurred by the individual because of the overtime;
— the meal expenses thus indemnified or the value of the meal supplied, as the case may be, are reasonable.

Furthermore, if, because of overtime worked by an individual in the course of the duties of his office or employment, he receives an indemnity for transportation or transportation service, for travel between the his place of residence and his place of work, no amount need be included in calculating his income from the office or the employment in relation to such indemnity or such service if the following conditions are satisfied:

— the overtime is worked at the request of the employer for a scheduled period of at least three consecutive hours;
— the overtime is infrequent or occasional in nature;
the transportation indemnity, if any, consists of a full or partial refund, upon submission of vouchers, of the taxi transportation expenses the individual incurred, because of the overtime, to travel between his place of residence and his place of work;

public transit service is not available or it is reasonable to consider, in view of the circumstances, that the individual’s security will be threatened because of the time at which he will be travelling.

In addition, to remove any ambiguity, the tax legislation will be amended to specify that like allowances for travel expenses, personal expenses, living expenses or representation expenses set by government order-in-council or a decision of the Conseil du trésor, any refund obtained by an individual in relation to such expenses or any payment of them on his behalf will result in no inclusion in the calculation of his income from an office or employment, if such refund or such payment, as the case may be, is made under a government order-in-council or a decision of the Conseil du trésor or has been authorized in accordance with such order-in-council or such decision.

These changes will apply as of taxation year 2002.

1.2 Exemption of the first $500 representing the value of gifts and rewards to employees

Under existing legislation, an individual must in particular include in calculating his income the value of benefits he receives or enjoys because of or in the course of the office or employment he holds. Accordingly, an employee must include, in calculating his income, the value of gifts and rewards, in kind or otherwise, he receives from his employer since they constitute benefits received because of or in the course of the office or employment he holds.

However, for many years now, the MRQ, that like the Canada Customs and Revenue Agency (CCRA) has considered that an employee is not obliged to include in the calculation of his income, the value of a gift he receives from his employer for marriage, Christmas or a similar occasion, if the following conditions are satisfied:

the value of the gift does not exceed $100;

the employer does not claim the cost, as an expense, in calculating his own income.
This administrative streamlining applies, regarding an employee, to only one gift per year, with the exception of the year during which the employee marries, in which case it applies to two gifts during the year.

In recent months, the CCRA has announced new rules governing gifts or rewards to employees. Essentially, under these new rules, an employee is not obliged to include in the calculation of his income the value of at most two gifts and rewards in kind received during a year if the cost of such gifts and such rewards does not exceed $500 respectively. However, the employer will no longer be required to forego the deduction, in calculating his income, of the cost of the goods and services offered to his employees for the latter to be able to benefit from this administrative streamlining measure.

According to these new rules, once he cost of the gifts or rewards, as the case may be, offered to an employee exceeds $500, not only the portion in excess of $500 but the entire value of the goods or services offered must be included in the calculation of the employee’s income. Furthermore, gift cheques do not give rise to any administrative streamlining.

Although practices developed in the world of labour to mark certain special occasions justify the introduction of an exception measure, the rules put in place by the CCRA cannot be completely incorporated into Québec’s tax legislation – their restrictions do not correspond to the objectives of Québec’s tax system.

The tax legislation will therefore be amended to stipulate that an employee will not be obliged to include in the calculation of his income for a taxation year, an amount representing the value:

— of gifts received from his employer in the year for special occasions, such as Christmas, a birthday or marriage, provided such amount does not exceed $500;

— rewards received from his employer in the year in recognition of certain achievements, such as reaching a certain number of years of service, meeting or exceeding safety requirements or reaching other similar objectives, provided such amount does not exceed $500.

This measure will not apply to gifts or rewards in cash or easily converted into cash, as well as the payment by the employer of insurance of persons premiums. However, gift certificates (gift cheques), including smart cards, that must be used to purchase a good or service at one or more identified merchants, will not be considered gifts or rewards easily converted into cash.
For greater clarity, the cost of goods and rewards covered by this new measure will be fully deductible in calculating the income of the employer, provided it is reasonable in the circumstances.

This measure will apply as of taxation year 2001.

1.3 Eligibility of the deduction relating to the CIP under the simplified tax system

The Cooperative Investment Plan (CIP) is designed to encourage the growth of cooperatives by granting a tax benefit to members and workers who acquire preferred units issued by an eligible cooperative – essentially a labour, manufacturing, processing or agricultural cooperative.

This tax benefit, consisting of a deduction in calculating taxable income, depends on the adjusted cost of the preferred unit acquired from the cooperative, established as:

— 150% of the acquisition cost in the case of a unit acquired from a small or medium-size cooperative under an investment program for workers;

— 125% of the acquisition cost in the case of a unit acquired from a small or medium-size cooperative, other than under an investment program for workers;

— 125% of the acquisition cost in the case of a unit acquired under an investment program for workers of a cooperative, other than a cooperative covered by the preceding points;

— 100% of the acquisition cost in other cases.

The existing tax legislation stipulates that an individual other than a trust, who resides in Québec on December 31 of a year can deduct, in calculating his taxable income, an amount not exceeding the excess of the adjusted cost of a preferred unit he acquired from an eligible cooperative during the year or during one of the five preceding years, over any amount deducted for such preceding years, provided such individual files his tax return according to the rules of the general tax system. To take advantage of this tax benefit, individuals must according forego the benefits of the simplified tax system.
In addition, the amount of the deduction relating to the CIP is limited depending on the individual’s total income. To encourage the growth of cooperatives, the limit applicable to such deduction was raised from 10% to 30% of the individual’s total income in the March 29, 2001 Budget Speech.

To further encourage members and workers to invest in their cooperative, the tax legislation will be amended to stipulate that a taxpayer may, for a given taxation year, elect the simplified tax system without having to forego the deduction, in calculating his taxable income, for such taxation year, the adjusted cost of preferred units acquired under the CIP.

This change will apply beginning in taxation year 2002.
2. MEASURES CONCERNING BUSINESSES

2.1 Introduction of a refundable tax credit to renew the stock of taxi vehicles

Since 1993, the stock of vehicles used in the taxi industry has aged rapidly, the average age of vehicles having risen by close to two years. The average age of vehicles, which stood at 5.85 years in 1993, was 7.76 years in 2000. During this same period, the proportion of vehicles over ten years old increased more than fivefold, from 5.6% in 1993 to 28.3% in 2000.

The increase in the average age of the stock of vehicles used in the taxi industry is due in part to the age of replacement vehicles. In 1998 alone, almost 80% of the vehicles acquired to replace one third of the stock of vehicles were over six years old, and almost 33% were vehicles over ten years old.

To renew the stock of vehicles used in the taxi industry, a temporary refundable tax credit will be introduced to encourage holders of taxi owner permits to use vehicles of five years old or less. This tax credit may reach $500 a year for each taxi owner license to which such a vehicle is attached.

Eligible taxpayer

An eligible taxpayer, for a given taxation year, means a taxpayer who is, at any time during the application period of the tax credit included in the taxation year, the holder of a taxi owner permit to which an eligible vehicle is attached.

For the purposes of this measure, the expression "taxi owner permit" means a taxi permit covered by the Act respecting transportation by taxi, including a limousine permit or other specialized taxi permit covered by the Act and, further to the replacement of the Act respecting transportation by taxi by the Act respecting transportation services by taxi a taxi owner permit covered by the latter Act.

The expression "holder" of a taxi owner permit means the person in whose name the taxi owner permit is issued or if such permit is issued in the name of many persons, whichever of these persons that they designate.
Eligible vehicle

For the purposes of the tax credit, an eligible vehicle means a motor vehicle of five years old or less, acquired or leased before January 1, 2006, and registered as a taxi.

The age of a motor vehicle will be determined according to the date it was first registered as a road vehicle.

A motor vehicle registered for the first time as a road vehicle outside Québec shall be presumed to have been registered for the first time on the earlier of the following dates:

— the date it is registered for the first time in Québec;
— January 1 of the motor vehicle’s model year.

However, this presumption may be rebutted if the holder of the taxi owner permit provides the ministère du Revenu du Québec (MRQ) with a document from a competent government authority indicating the date on which the motor vehicle was first registered as a road vehicle outside Québec.

Calculation of the tax credit

An eligible taxpayer may, regarding each of the taxi owner permit he holds during a given taxation year, receive a refundable tax credit for an amount equal to the product of the multiplication of $500 by the proportion, which may not exceed 1, between the number of days of the taxation year included in the period of application of the tax credit and during which a motor vehicle attached to the taxi owner permit was an eligible vehicle, and 365.

Incidental rules

The refundable tax credit for the renewal of the stock of vehicles used in the taxi industry may be applied against instalments of the eligible taxpayer for income tax and, if applicable, the tax on capital.
To claim this tax credit, for a given taxation year, an eligible taxpayer must file, for such year, a tax return and enclose with it a copy of the information statement he received from the Société de l'assurance automobile du Québec, regarding each of the taxi owner permits he held during the year. The Société de l’assurance automobile du Québec will be required to produce such information statements no later than February 28 of the calendar year following any calendar year included in the period of application of the tax credit.

In addition, this tax credit will be non-taxable. For greater clarity, the amount of the refundable tax credit need not be included in calculating the income of the holder of the taxi owner permit and will not reduce the adjusted cost base of the motor vehicle for the purposes in particular of calculating the deduction for depreciation.

- Period of application of the tax credit

The refundable tax credit for the renewal of the stock of vehicles used in the taxi industry will apply for the period beginning January 1, 2001 and ending December 31, 2010.

- 2.2 Adjustments to the tax assistance relating to the carrying out of innovative projects and eligible activities in certain designated sites

Québec's tax legislation includes a set of measures that favour companies that carry out scientific research and experimental development (R&D) activities and other forms of innovation in certain activity sectors, in particular those identified with the knowledge-based economy. This applies, among others, to the measures relating to carrying out eligible activities in certain designated sites, i.e. measures relating to information technology development centres (CDTIs), the Centre de développement des biotechnologies de Laval, the Cité du multimédia, the Centre national des nouvelles technologies de Québec (CNNTQ), and new economy centres (CNEs).

- Required simplifications

These fiscal measures relating to the knowledge-based economy were developed and introduced over a period of many years. They consist essentially of two types of fiscal measures, namely those relating to carrying out an innovative project and those relating to the carrying out of eligible or specified activities, other than in the course of carrying out an innovative project.
All these fiscal measures allow a corporation to claim a refundable tax credit regarding eligible or specified salaries, paid to eligible or specified employees, regardless of whether or not such salaries were incurred in the course of carrying out an innovative project. Furthermore, all these fiscal measures stipulate that a foreign specialist employed by such a corporation can claim, for a period of five years, an exemption from tax on his income from such employment.

In the case of carrying out an innovative project, a corporation may, in addition, receive a five-year tax holiday with respect to income tax, the tax on capital and the employer contribution to the Health Services Fund (HSF), as well as a refundable tax credit with respect to the acquisition or lease of eligible specialized equipment.

Lastly, a corporation that carries out an innovative project in the biotechnology sector in the Centre de développement des biotechnologies de Laval may claim a refundable tax credit for eligible rental expenses relating to the short-term rental of eligible specialized installations.

Currently, all the refundable tax credits relating to these fiscal measures are, among other things because of their implementation over a period of many years, treated as separate tax credits, distinct from one another. Yet the differences between each of these groups of tax credits are either insignificant or non-existent. For example, the distinction between two tax credits may, in some cases, be limited to the name of the premises in which the corporation carries on its business in a designated site.

Also, the use, over the years, of slightly different expressions to describe the same reality can give the impression, in some cases, that there are differences between two fiscal measures, when that is not the case.

This situation leads to a degree of complexity, even giving rise to confusion and thus hampering the effectiveness of these fiscal measures.

Accordingly, these tax credits will be simplified by grouping them into a minimum number corresponding more closely to their true situation.

Since the administration of these tax credits is partially the responsibility of the MRQ and partially that of Investissement Québec, their simplification will necessitate amendments to the Taxation Act, and adjustments and clarifications to the administrative terms and conditions under the responsibility of Investissement Québec.
Incidentally, adjustments will also be made to the responsibilities of Investissement Québec and the ministère des Finances with regard to the designation of various sites.

However, it is useful to specify that the simplification of these tax credits will not bring about any significant change in fiscal policy with respect to them. Most of the adjustments needed to achieve the simplification objective are minimal in relation to the rules specifically applicable to each of these tax credits. In the case of administrative rules under the responsibility of Investissement Québec, some are specified below while others are simply noted to clarify their exact scope in the context of these simplifications. Specifying these administrative details should help clarify some of them.

**Review of existing fiscal measures**

The measures relating to CDTIs were introduced in the March 25, 1997 Budget Speech. Briefly, these measures are designed to support corporations that undertake to carry out, within designated buildings, innovative projects in the new information and communications technology field. In the specific case of the Centre de développement des biotechnologies de Laval, which is considered a CDTI for the purposes of these fiscal measures, it is dedicated exclusively to biotechnology activities. The creation of the Centre de développement des biotechnologies de Laval was announced in the March 29, 2001 Budget Speech.

Briefly, a corporation that carries out an innovative project in a CDTI or in the Centre de développement des biotechnologies de Laval can claim a five-year tax holiday regarding income tax, the tax on capital and the employer contribution to the HSF. It may also receive refundable tax credits for salaries paid to eligible employees as well as for the acquisition or leasing of eligible specialized equipment. Furthermore, a foreign specialist employed by such a corporation may receive, for five years, an exemption from tax on his income from such employment. Lastly, a corporation that carries out an innovative project in the biotechnology sector in the Centre de développement des biotechnologies de Laval may also claim a refundable tax credit regarding eligible rent expenses relating to short-term rental of eligible specialized installations during the five-year tax holiday.
The measures regarding the Cité du multimédia were introduced on June 15, 1998, while those relating to the CNNTQ and CNEs were announced in the March 9, 1999 Budget Speech. Briefly, the tax assistance specifically applicable to these designated sites enables a corporation to claim a refundable tax credit for eligible or specified salaries, paid to eligible or specified employees. In addition, a foreign specialist employed by such a corporation and whose duties are almost exclusively attributable to eligible activities, may receive, for five years, an exemption from tax on his income from such employment.

In addition, corporations that carry out activities in a designated building of a CNE may claim either the tax assistance specifically applicable to CNEs regarding their specified activities, or that applicable to CDTIs if they carry out an innovative project in the new information and communications technology field.

According to the current tax rules, a corporation that carries out an innovative project in a CNE, a CDTI or the Centre de développement des biotechnologies de Laval, may receive, at least until December 31, 2010, a tax credit regarding the eligible salaries incurred during the period concerned. In addition, when a corporation begins to carry out an innovative project in such a designated site in 2001, 2002 or 2003, it can claim a tax credit regarding eligible salaries incurred for a period of ten years. Also, when the corporation begins to carry out an innovative project in such a site after 2003 and before 2011, it can claim a tax credit regarding eligible salaries incurred until December 31, 2013. Lastly, a corporation that becomes eligible for these fiscal measures after December 31, 2010 may claim a tax credit regarding the eligible salaries incurred during its first three years of tax holiday.

A corporation that moves into the Cité du multimédia, the CNNTQ or into premises designated as a CNE or into the Centre de développement des biotechnologies de Laval and, in the latter two cases, does not carry out an innovative project, may, if it satisfies the other conditions otherwise stipulated, claim, at least until December 31, 2010, a tax credit for eligible or specified salaries incurred during the period concerned. In addition, if a corporation carries out eligible or specified activities in one of these designated sites following the conclusion of a lease in 2001, 2002 or 2003, it may claim, for a period of ten years, a tax credit regarding eligible or specified salaries incurred during such period. Lastly, if a corporation carries out eligible or specified activities in one of these designated sites following the conclusion of a lease after 2003 and before 2014, it may claim a tax credit regarding eligible or specified salaries incurred until December 31, 2013.
Review of currently designated sites

— CDTIs

The first sites designated for the purposes of these fiscal measures were the CDTIs in the cities of Hull, Laval, Montréal, Sherbrooke and Québec City. The Minister of Finance designated these sites and the Minister of Finance assigned a maximum floor space to each of them.

— The Centre de développement des biotechnologies de Laval

The Minister of Finance designated the Centre de développement des biotechnologies de Laval and assigned a maximum floor space of 9 300 square metres to it.

— The Cité du multimédia

The Cité du multimédia is located near the Old Port of Montréal, in the quadrilateral formed by de la Commune, Duke, William and King streets. The 25 buildings designated for the purposes of this fiscal measure are located in this quadrilateral and were designated by the Minister of Finance. The initial designation of the buildings did not specify a limitation in terms of square metres. However, the rental capacity of the designated buildings, about 125 000 square metres, now determines the maximum rental floor space of the Cité du multimédia.

— The CNNTQ

The CNNTQ is located in downtown Québec City and is bounded by a specific perimeter. The buildings located inside this perimeter may be designated for the purposes of this fiscal measure. The floor space currently stands at 47 900 square metres and limits the rental space that can be designated. The Minister of Finance is responsible for designating the perimeter of the CNNTQ as well as the maximum floor space that can be designated. Investissement Québec is responsible for the official designation of premises. Accordingly, Investissement Québec must ensure that the official designation of rental space never exceeds the limit set by the Minister of Finance.
CNEs

CNEs are located in each region of Québec. In a given region, the same CNE may be established in more than one urban centre, depending on the region’s needs. The total floor space available for all regions of Québec is 125,000 square metres. The Minister of Finance is responsible for determining the maximum floor space that can be designated. Investissement Québec is responsible for designating the buildings and floor space attributable to each region. Accordingly, Investissement Québec must ensure that the official designation of rental space never exceeds the limit of 125,000 square metres set by the Minister of Finance.

However, this overall floor space of 125,000 square metres does not include the portions of the floor space of the CDTIs in the cities of Hull, Laval, Montréal, Sherbrooke and Quebec City, or the Centre de développement des biotechnologies de Laval, which may be used to accommodate corporations that want to carry out activities eligible for the tax assistance applicable to CNEs.

Intersection of certain designated sites

Some designated sites are located inside another designated site with more floor space. Such is the case of the Québec City and Montréal CDTIs and the CNEs located in Hull, Laval, Montréal, Sherbrooke and Québec City.

In the case of the CDTI de Montréal, it consists of a general designation of rental space that is not to exceed a maximum of 50,000 square metres, that may be located in any designated building of the Cité du multimédia. Accordingly, Investissement Québec must ensure that the designation of rental space for this CDTI never exceeds the limit of 50,000 square metres.

In the specific case of the CDTI de Québec, it was initially located at 390, rue Saint-Vallier Est. This building is located inside the perimeter of the CNNTQ. It was subsequently announced that this specific designation of premises would be replaced by a general designation of premises, not to exceed a total floor space of 10,700 square metres, to be located in any designated premises of the CNNTQ. However, such general designation was to become effective only as of the day when all the rental space of the building located at 390, rue Saint-Vallier Est was leased to corporations eligible for the CDTI program, the CNNTQ program or the CNE program. This condition has been satisfied and the CDTI de Québec now consists of a general designation of rental space not to exceed a total floor space of 10,700 square metres, to be located in any designated premises of the CNNTQ.
Accordingly, Investissement Québec must ensure that the designation of rental space for this CDTI never exceeds the limit of 10,700 square metres. It is worthwhile noting that this floor space of 10,700 square metres is not included in the available floor space of 47,900 square metres of the CNNTQ that may be designated. It is in addition to this floor space.

In the case of the CNEs located in Hull, Laval, Montréal, Sherbrooke and Québec City, i.e. cities with a CDTI, and, in the case of the CNE in Laval, where there is a CDTI and the Centre de développement des biotechnologies de Laval, these CNEs are located in the CDTIs of these cities and in the Centre de développement des biotechnologies de Laval.

As indicated above, the designation of premises as a CNE in one of these sites is not included in the overall limit of 125,000 square metres set by the Minister of Finance. However, such designation encroaches on the floor space available for the CDTI concerned. The same situation applies concerning the Centre de développement des biotechnologies de Laval, which is dedicated exclusively to biotechnology activities. The designation of premises to carry out biotechnology activities, other than in the course of carrying out an innovative project, is not included in the overall limit of 125,000 square metres set by the Minister of Finance. However, such designation encroaches on the available floor space of 9,300 square metres of the Centre de développement des biotechnologies de Laval.

The CNE de Québec is an exception to this rule. In the specific case of this CNE, additional floor space of 7,500 square metres may be designated, in addition to what may be designated from the floor space of 10,700 square metres of the CDTI de Québec. However, such designation from such additional floor space must be made within the perimeter of the CNNTQ and encroach on the floor space of 47,900 square metres available for the CNNTQ. In addition, such additional floor space is not available for corporations that wish to receive the assistance applicable to corporations that carry out an innovative project. Accordingly, the floor space available for such corporations remains limited to 10,700 square metres, namely the floor space of the CDTI de Québec.
Lastly, a portion of the floor space of 47,900 square metres available for the CNNTQ may be designated for another fiscal measure, namely the refundable tax credit for e-business activities carried out in certain designated sites. The parameters of this tax credit are very different from those covered by these adjustments. However, the spaces of the CNNTQ designated for the purposes of the refundable tax credit for e-business activities carried out in certain designated sites encroach on the floor space of 47,900 square metres available for the CNNTQ. Accordingly, the floor space available to carry out activities eligible for the tax assistance specifically applicable to the CNNTQ or the CNEs and, in the latter case, other than in the course of carrying out an innovative project, and for the carrying on of a certified business for the purposes of the refundable tax credit for e-business activities carried out in certain designated sites, is limited to the 47,900 square metres available for the CNNTQ.

Review of administrative responsibilities relating to these fiscal measures

The administrative responsibilities relating to these fiscal measures are divided among the MRQ, Investissement Québec and the ministère des Finances.

Responsibilities of the MRQ

The MRQ is responsible for administering the Taxation Act and, accordingly, ensuring compliance with the provisions of the Act. If an eligibility criterion relating to these fiscal measures is indicated in the Taxation Act, the MRQ ensures that the criterion is satisfied. Among other things, these fiscal measures stipulate that the corporation must obtain an eligibility certificate issued by Investissement Québec. In this specific case, the MRQ’s responsibility regarding this eligibility certificate is limited to checking that the corporation actually has the eligibility certificate. The MRQ is not responsible for checking the items underlying the issuing of such certificate by Investissement Québec. However, the MRQ may provide Investissement Québec with information to ensure the integrity of a fiscal measure.
Responsibilities of Investissement Québec

Responsibility for issuing the various eligibility certificates, and ensuring compliance with certain eligibility criteria, lies exclusively with Investissement Québec. The fact that Investissement Québec has issued an eligibility certificate is not an absolute guarantee that the corporation may benefit from the fiscal measure concerned. The eligibility certificate simply confirms that the administrative criteria that are the responsibility of Investissement Québec have been satisfied. The other eligibility criteria stipulated in the Taxation Act, which fall under the responsibility of the MRQ, must also be satisfied before the corporation can claim the benefits of the fiscal measure concerned.

In addition, Investissement Québec assumes certain responsibilities regarding the designation of premises for the purposes of these fiscal measures. Such is the case with the CNEs, whose designation comes under the authority of Investissement Québec.

Furthermore, because of the many intersections of designated sites, the eligibility certificate issued to a corporation by Investissement Québec determines, in most cases, the exact designation of the premises occupied by such corporation in a given designated site.

For instance, a corporation that wishes to benefit from one of these fiscal measures relating to the carrying out of eligible activities in the materials technology sector in the perimeter of the CNNTQ may obtain an eligibility certificate enabling it to receive tax assistance specifically applicable to CNEs. Accordingly, the premises it occupies in the perimeter of the CNNTQ will be premises of the CNE de Québec.

Investissement Québec must, however, apply these designations in compliance with the maximum floor spaces indicated by the Minister of Finance.

Responsibilities of the ministère des Finances

Lastly, the role of the ministère des Finances is to designate new CDTIs, and determine the floor space available for each of the fiscal measures. These designations or determinations are made either specifically for a designated site, or generally for a given fiscal measure, as is the case for CNEs. Furthermore, the ministère des Finances formulates the applicable eligibility criteria and makes any adjustments needed to these fiscal measures.
2.2.1 Simplification of the Taxation Act

The tax credits a corporation that carries out eligible or specified activities in one of these designated sites may claim can be divided into three distinct components. The first consists of tax credits relating to salaries. The second consists of tax credits relating to the acquisition or lease of assets in the course of carrying out an innovative project. Lastly, the third component consists solely of the refundable tax credit regarding eligible rent costs relating to the short-term rental of eligible specialized installations that can be claimed by a corporation that carries out an innovative project in the biotechnology sector in the Centre de développement des biotechnologies de Laval.

Consolidation of tax credits

All these tax credits will be consolidated within a single division of the Taxation Act. In this regard, the division of the Taxation Act bearing on tax credits relating to the carrying out of activities in a CNE corresponds perfectly to the needs targeted by this simplification. This division covers corporations that carry out activities in a CNE, whether in the course of carrying out an innovative project or not. Also, a corporation that carries out an innovative project in a CNE receives tax credits similar to those received by a corporation that carries out an innovative project in a CDTI, while a corporation that carries out specified activities in a CNE, other than in the course of carrying out an innovative project, receives a tax credit similar to the one received by a corporation that carries out eligible activities in the Cité du multimédia or in the CNNTQ, other than in the course of carrying out an innovative project.

Accordingly, the division of the Taxation Act bearing on tax credits relating to the carrying out of activities in a CNE, i.e. the division on "Credits to foster the development of the new economy", will be expanded to apply to all the tax credits covered by these fiscal measures, while the divisions bearing on the other tax credits concerned by this simplification will be eliminated.

As a consequence of this consolidation, the rules of the Taxation Act applicable to these tax credits will be, subject to the adjustments indicated below, those currently applicable to the tax credits relating to the carrying out of activities in a CNE.
Corporations eligible for these tax credits

Corporations that can benefit from these tax credits are divided into two groups, namely those that carry out an innovative project (exempt corporations) and the rest. The division on "Credits to foster the development of the new economy" of the *Taxation Act* already makes such a distinction.

The notion of an exempt corporation covers a corporation that, in addition to satisfying the other conditions, holds a certificate issued by Investissement Québec to the effect that it carries on or can carry on a business that constitutes an innovative project in a CNE.

Accordingly, this notion of exempt corporation will be broadened to also apply to any corporation that, in addition to satisfying the other conditions, holds a certificate issued by Investissement Québec to the effect that it carries on or can carry on a business that constitutes an innovative project either in a CDTI or in the Centre de développement des biotechnologies de Laval.

In addition, a specified corporation, i.e. a corporation that satisfies certain conditions stipulated in the *Taxation Act* and that does not carry out an innovative project, may receive a tax credit regarding the specified wages paid to a specified employee, regarding the carrying out of a specified activity.

The notion of a specified corporation does not specifically cover a corporation that carries on a business in a CNE and accordingly may apply to other corporations covered by the tax credits that are henceforth covered by this division, subject to the adjustments indicated below concerning the notions of specified employee and specified activity.

Refundable tax credits regarding salaries

The refundable tax credits on salaries relating to the fiscal measures concerned are divided into two sub-groups, namely those that can be claimed by a corporation that carries out an innovative project and those available to other corporations. The division on "Credits to foster the development of the new economy" of the *Taxation Act* already stipulates such a distinction. Furthermore, the main parameters of these tax credits are identical, for instance, the rate and the upper limit on these tax credits.
Also, an exempt corporation may claim a tax credit regarding the eligible salary paid to an eligible employee, in the course of carrying out an innovative project in a CNE. A specified corporation, which does not carry out an innovative project, may claim a tax credit regarding the specified wages paid to a specified employee, regarding the carrying out of a specified activity in a CNE.

Accordingly, with regard to corporations that carry out an innovative project, the notion of eligible wages will be broadened to also apply to the wages paid to an eligible employee, in the course of carrying out an innovative project in a CDTI or in the Centre de développement des biotechnologies de Laval. Similarly, the notion of eligible employee will be broadened to also apply to an employee regarding whom Investissement Québec has issued a certificate to the effect that he is an eligible employee for the purposes of the tax credit on salaries regarding CDTIs and the tax credit on salaries regarding the Centre de développement des biotechnologies de Laval.

With regard to corporations that carry out activities in one of these designated sites, other than in the course of carrying out an innovative project, the notion of specified employee will be broadened to also apply to an employee regarding whom Investissement Québec has issued a certificate to the effect that he is a specified employee for the purposes of the tax credits on salaries regarding the Cité du multimédia, the CNNTQ or the Centre de développement des biotechnologies de Laval and, in the latter case, whose employer does not carry out an innovative project. Currently, such an employee is, in the case of the Cité du multimédia and the CNNTQ, designated as an eligible employee. He will henceforth be designated as a specified employee.

Similarly, the notion of specified activity will be broadened to also apply to an activity with respect to which Investissement Québec has issued a certificate to the effect that such activity relates to the new economy, i.e. by virtue of the activities covered by the fiscal measures relating to the Cité du multimédia, the CNNTQ or the Centre de développement des biotechnologies de Laval. Currently, such an activity is, in the case of the Cité du multimédia and the CNNTQ, designated as an eligible activity. It will henceforth be designated as a specified activity.

Accordingly, the rules that will apply to these refundable tax credits regarding salaries will be the ones currently stipulated in the division on "Credits to foster the development of the new economy".
Refundable tax credits regarding the acquisition of assets

A corporation that carries out an innovative project in a CDTI, a CNE or in the Centre de développement des biotechnologies de Laval, can claim a tax credit regarding a qualified property it acquires or leases. The main parameters of the refundable tax credit regarding the acquisition of assets in the division on "Credits to foster the development of the new economy" are identical to the ones applicable regarding the other two fiscal measures.

However, the asset must be an asset that the corporation uses chiefly in a building housing all or part of a new economy centre and that it uses exclusively or almost exclusively to earn income from a business it carries on in such building. Furthermore, Investissement Québec must have issued an eligibility certificate regarding the asset for the purposes of the tax credit.

Accordingly, the notion of qualified property in the division on "Credits to foster the development of the new economy" will be broadened to also apply to an asset currently covered by the fiscal measures relating to the carrying out of an innovative project in a CDTI or in the Centre de développement des biotechnologies de Laval.

More specifically, the condition relating to the use of the asset in a given building to earn income from a business it carries on in such building will be changed to refer to premises designated as a CDTI if the corporation carries out an innovative project in such premises, and to refer to the Centre de développement des biotechnologies de Laval if the corporation carries out an innovative project in the Centre de développement des biotechnologies de Laval.

Similarly, the condition relating to the certificate issued by Investissement Québec will be broadened to also include the certificates issued by Investissement Québec regarding an asset of a corporation that carries out an innovative project in premises designated as a CDTI or in the Centre de développement des biotechnologies de Laval.
Refundable tax credit for short-term rental of specialized installations

As indicated above, a corporation that carries out an innovative project in the biotechnology sector in the Centre de développement des biotechnologies de Laval, may claim a refundable tax credit regarding eligible rent expenses relating to the short-term rental of eligible specialized installations, during the five-year tax holiday. The provisions specifically applicable to this tax credit will henceforth be included in the division on "Credits to foster the development of the new economy". For greater clarity, only an exempt corporation that carries out an innovative project in the biotechnology sector in the Centre de développement des biotechnologies de Laval may claim this tax credit.

Adjustment relating to the application details of the three-year extension of the refundable tax credits relating to salaries

An adjustment will also be made to the application details of the three-year extension of the refundable tax credits relating to salaries announced in the November 1, 2001 Budget Speech. This adjustment does not stem from the simplification rules announced in this information bulletin.

As indicated above, a corporation may claim, at least until December 31, 2010, a tax credit relating to salary. The period of eligibility for this tax credit may, in some cases, be extended after such date but not beyond December 31, 2013, except for a corporation that carries out an innovative project. In the latter case, it is possible for the period of eligibility to run beyond December 31, 2013.

This period of eligibility was extended by three years in the November 1, 2001 Budget Speech. However, the text of the announcement of this extension referred solely to the date of conclusion of a lease.

In some cases, such date is not used to establish the period of eligibility for tax assistance. More specifically, such is the case of a corporation that carries out an innovative project or a corporation that owns the building in which it carries out its activities. In other cases, the use of the date of conclusion of a lease may penalize a corporation for reasons beyond its control.

In addition, the reference to the date of conclusion of a lease could give the impression that these terms and conditions applied independently to each lease a corporation may conclude.
Accordingly, the period of eligibility for tax credits relating to salary will be adjusted to allow for these situations.

— **Beginning of the period of eligibility**

First, in the case of a corporation that carries out an innovative project, the reference to the date of conclusion of the lease will be replaced with a reference to the date on which the corporation’s first taxation year begins.

Second, in the case of a corporation that does not carry out an innovative project and is the owner-occupant of the building in which it carries out the activities, the reference to the date of conclusion of the lease will be replaced with a reference to the date on which a specified activity begins to be carried out in a designated site. Investissement Québec will indicate this date on the certificate it issues to the effect that an activity carried out by a corporation relates to the new economy.

Third, in the case of a corporation that does not carry out an innovative project, it can happen that events beyond the control of such corporation significantly delay the conclusion of a lease, for example because of delays in the conclusion of an agreement between Investissement Québec and the owner of a designated site.

Accordingly, in such cases where Investissement Québec considers that the delay in concluding a lease is attributable to events beyond the control of a corporation, the reference to the date of conclusion of the lease will be replaced with a reference to the date on which a such a lease would have been concluded were it not for the events beyond the control of the corporation. Investissement Québec will indicate this date on the eligibility certificate it issues to the effect that an activity carried out by a corporation relates to the new economy.

— **Compliance with the spirit of the three-year extension**

Lastly, to ensure compliance with the spirit of this three-year extension of the period of eligibility, the date used to establish the end of the period of eligibility for the tax credits relating to salary will be clarified.
More specifically, the reference to the date of conclusion of the lease by the corporation, the date on which a lease would have been concluded, or the date on which a specified activity begins to be carried out in a designated site, as the case may be, will be replaced with a reference to the first date of eligibility determined according to one of these three possibilities, for the carrying out of activities in one of these designated sites, other than in the course of carrying out an innovative project, by the corporation or by any corporation with which the corporation is associated to on the date of conclusion of a new lease by the corporation, the date on which this new lease would have been concluded, or the date on which a new specified activity begins to be carried out in a designated site, as the case may be.

The date that Investissement Québec will indicate on the eligibility certificates, i.e. the date of conclusion of the lease by the corporation, the date on which a lease would have been concluded, or the date on which a specified activity begins to be carried out in a designated site, as the case may be, will not be changed by this clarification. Investissement Québec does not have the information necessary to establish the association of corporations among themselves. This clarification will accordingly be stipulated in the Taxation Act, and its application will come under the jurisdiction of the MRQ.

For greater clarity, this adjustment to the date used to establish the end of the period of eligibility for the refundable tax credits relating to salaries does not change the date on which the period of eligibility begins regarding specified activities carried out in a designated site under a given lease.

### Application dates

These changes will apply, in general, to taxation years of a corporation beginning after the date of publication of this information bulletin.

However, in the specific case of a corporation that carries out activities in the Centre de développement des biotechnologies de Laval, whether or not in the course of carrying out an innovative project, these changes will apply since the creation of the Centre de développement des biotechnologies de Laval.

For greater clarity, the adjustment relating to the application details of the three-year extension of refundable tax credits relating to salaries will apply as if it had been indicated in the November 1, 2001 Budget Speech.
2.2.2 Clarifications and adjustments to the responsibilities of Investissement Québec

As indicated above, the simplification of the tax credits requires that clarifications and adjustments be made to the administrative details that are the responsibility of Investissement Québec.

In addition, these administrative details have been adjusted many times in recent years. In the context of this simplification of these tax credits, it seems worthwhile to review and specify the scope of some of these administrative details.

—I Clarifications on the issuing of various certificates

The simplification of the tax credits will not change the type of certificates issued by Investissement Québec, nor the issue criteria specifically applicable to each of these fiscal measures. Accordingly, separate eligibility certificates will continue to be issued for each of these fiscal measures.

Also, the issue criteria of the certificates, whose application is the responsibility of Investissement Québec, may continue to vary from one fiscal measure to another. Such differences currently exist and they will be maintained. However, they will be limited to certain very specific situations and it seems appropriate to review them briefly.

— Place of work of a corporation that carries out an innovative project

In the case of an employee of a corporation that carries out an innovative project, he must, among other conditions, perform his duties mainly within the premises of the designated site in order to qualify as an eligible employee.

The first exception to this condition, which applies to any corporation that carries out an innovative project, stipulates that an otherwise eligible employee who takes supplementary training at the request of his employer, even outside the designated site, is deemed to satisfy this condition for such training period, if he receives his normal remuneration during such training period.
The second exception to this condition applies solely to a corporation that carries out an innovative project in the Centre de développement des biotechnologies de Laval. In this specific case, the time spent by an employee using an eligible specialized installation rented by his employer from the Institut national de la recherche scientifique (INRS), is deemed to be time during which such employee carries out his duties within the premises of the Centre de développement des biotechnologies de Laval.

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**Place of work of employees of a corporation that does not carry out an innovative project**

In the case of an employee of a corporation that does not carry out an innovative project, he must, among other conditions, carry out all or almost all of his duties within the premises of the designated site in order to qualify as a specified employee.

The first exception to this condition stipulates that an otherwise eligible employee who takes supplementary training at the request of his employer, even outside the designated site, is deemed to satisfy this condition for such training period, if he receives his normal remuneration during such training period.

The second exception to this condition allows Investissement Québec, in certain situations, to issue a certificate to a corporation, regarding an otherwise eligible employee, even if such employee performs a significant part of his duties outside the designated site. The situations covered by this exception include those in which Investissement Québec considers that it is not reasonable to require that such portion of the duties be carried out in the designated site, in the case where activities are carried out in a research centre with specialized equipment or, as the case may be, in a natural setting for example.

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**Adjustments and clarifications concerning designations of sites**

As indicated above, the responsibilities of designating buildings and floor space relating to the designated sites of these fiscal measures lie in part with Investissement Québec and in part with the Minister of Finance. Certain adjustments will be made to these responsibilities to specify and clarify the respective responsibilities of each.

Accordingly, increases in floor space of CDTIs, the CNNTQ, the Centre de développement des biotechnologies de Laval and the overall floor space for all the CNEs, the designation of additional buildings in the case of the Cité du multimédia or the designation of new sites as CDTIs, will be carried out by the Minister of Finance.
The designation of new sites as CNEs will generally be carried out by Investissement Québec. However, these designations must comply with the overall floor spaces indicated by the Minister of Finance.

In exceptional situations, the Minister of Finance may designate a new CNE, in a Budget Speech or an information bulletin, for instance. It will then be specified whether such designation increases the overall floor space allocated to this type of site or not.

For greater clarity, the designation of a new site as a CDTI or a CNE will not change the fact that the specific designation of premises as a CDTI or CNE may be made regardless of how the site is labelled in general.

In addition, the administrative responsibilities relating to interactions with the owners of designated sites, in particular the signature of agreements and changes to existing agreements, will be the responsibility of Investissement Québec regarding all designated sites, namely the CDTIs, the Centre de développement des biotechnologies de Laval, the Cité du multimédia, the CNNTQ and the CNEs. For greater clarity, the responsibilities of Investissement Québec in this regard will also apply to the monitoring of agreements previously concluded by the ministère des Finances when it assumed these responsibilities.

2.3 CDTI de Laval and Centre de développement des biotechnologies de Laval

Laval has two designated sites allowing corporations to receive tax assistance, namely the CDTI de Laval and the Centre de développement des biotechnologies de Laval. Adjustments will be made to these two designated sites.

- Increase in the floor space of the CDTI de Laval

Currently, the CDTI de Laval consists of buildings located at 420 and 440, boulevard Armand-Frappier. The authorized floor space of this CDTI is 9 650 square metres.

The floor space of the CDTI de Laval will be increased by 4 645 square metres, bringing its total floor space to 14 295 square metres. The additional space will be located in a building to be constructed at 400, boulevard Armand-Frappier, on the land designated by lot number 1 697 341 of the Québec cadastre of the registration division of Laval.
Place where biotechnology activities are carried out

A second building designated as the Centre de développement des biotechnologies de Laval and dedicated to biotechnology activities has been designated in Laval.

To promote the development of the Centre de développement des biotechnologies de Laval and enhance the grouping of corporations that carry out biotechnology activities and wish to establish themselves in Laval to benefit from CNE tax assistance, they will have to move into the Centre de développement des biotechnologies de Laval.

2.4 Adjustment to tax assistance relating to E-Commerce Place

E-Commerce Place is located in downtown Montréal and consists of buildings to be constructed in the quadrilateral formed by de la Montagne, Saint-Antoine and Lucien-L’Allier streets and René-Lévesque boulevard.

Briefly, the tax assistance an eligible corporation that moves into E-Commerce Place may receive consists of a refundable tax credit of 35% on the eligible salary incurred and paid to its eligible employees to carry out eligible activities, as well as a five-year tax holiday for foreign experts it employs.

However, the amount of the tax credit an eligible corporation may claim, for a taxation year, regarding the eligible salary paid to an eligible employee for such year is limited to $12 500 per eligible employee.

Lastly, the rate of this tax credit is reduced, as of the sixth year of operation of an eligible corporation in E-Commerce Place, if the eligible corporation has not created a minimum number of jobs in Québec.

Under existing rules, a corporation may claim, at least until December 31, 2010, a tax credit relating to salary. The period of eligibility for this tax credit may, in certain cases, extend beyond such date, though not beyond December 31, 2013.

The period of eligibility was extended for three years in the November 1, 2001 Budget Speech. However, the text of the announcement of this extension referred solely to the date of conclusion of a lease.
The reference to the date of conclusion of a lease could give the impression that these terms and conditions applied independently to each lease a corporation may conclude.

Accordingly, to comply with the spirit of this three-year extension of the period of eligibility, the date used to establish the end of the period of eligibility for the tax credit relating to salary will be clarified.

More specifically, the reference to date of conclusion of the lease by the corporation will be replaced with a reference to the date of conclusion of an initial lease, for the carrying out of activities in E-Commerce Place by the corporation or any corporation with which the corporation is associated on the date of conclusion of a new lease.

The date the Bureau du commerce électronique indicates on the eligibility certificates, i.e. the date of conclusion of the lease by the corporation, will not be changed by this clarification. The Bureau du commerce électronique does not have the information necessary to establish the association of corporations among themselves. This clarification will accordingly be stipulated in the Taxation Act, and its application will come under the jurisdiction of the MRQ.

For greater clarity, this adjustment to the date used to establish the end of the period of eligibility for the refundable tax credit relating to salary does not change the date on which the period of eligibility begins regarding eligible activities carried out in E-Commerce Place under a given lease.

This adjustment relating to the application details of the three-year extension of tax credit relating to salary will apply as though it had been indicated in the November 1, 2001 Budget Speech.

2.5 Refundable tax credit for e-business activities carried out in certain designated sites

The refundable tax credit for e-business activities carried out in certain designated sites was introduced in the November 1, 2001 Budget Speech.

In general, this refundable tax credit is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation that moves into designated premises located either in the Montréal E-Commerce Zone or the Centre national des nouvelles technologies de Québec, for five consecutive calendar years.
More specifically, to establish the refundable tax credit, an eligible corporation must compare the payroll of a given calendar year with that of its reference calendar year. This reference calendar year corresponds to the calendar year preceding the one during which the corporation began to carry on a certified business, i.e. a business regarding which the Bureau du commerce électronique issued an eligibility certificate.

Accordingly, an eligibility certificate is issued if the corporation carries on, in a designated site, a business whose activities concern in particular the development and supply of products and services relating to e-business and activities relating to the operation of e-business solutions.

A corporation may operate in many sectors of activity, including e-business, and the number of employees assigned to each activity can vary from year to year. To facilitate the administration of this fiscal measure, while ensuring that the tax credit is actually granted regarding the target activities, a change will be made to the notion of eligible employee.

According to the current terms and conditions, the notion of eligible employee means an employee at least 90% of whose duties are devoted to undertaking, supervising or directly supporting the activities of the certified business carried on by the eligible corporation, and who is not a specified shareholder of the eligible corporation. For greater clarity, duties relating to general administration, such as administrative services and clerical support, are ineligible.

In addition, all or substantially all of the duties of such employee must be carried out either in designated premises, or elsewhere, but in relation with the mandates attributable to such establishment.

In addition to these conditions, the eligible corporation must obtain an annual eligibility certificate from the Bureau du commerce électronique certifying that the employee satisfies the eligibility conditions both for a given calendar year and for the reference calendar year. This certificate thus confirms that at least 90% of employee’s duties consist in undertaking, supervising or directly supporting the activities of the certified business and are carried out either in designated premises, or elsewhere, but in relation with the mandates attributable to such establishment.
Lastly, to claim the tax credit, regarding a calendar year, the eligible corporation must enclose with its tax return, for its taxation year in which such calendar year ends, a copy of the certificates issued by the Bureau du commerce électronique relating to eligible employees.

These changes will apply as of calendar year 2001.

2.6 Refundable tax credit for technological adaptation services

The March 9, 1999 Budget Speech introduced a new two-part refundable tax credit to further support small businesses in gathering and processing strategic information and cooperating in research and innovation. The first component of this tax credit concerns competitive information, i.e. the results of intelligence activities carried out by a competitive intelligence centre, while the second concerns liaison and transfer services.

Briefly, the tax credit an eligible corporation may claim, for a taxation year, is determined by multiplying by 40% the amount of eligible expenditures the eligible corporation incurred, during such year, with an eligible competitive intelligence centre, an eligible liaison and transfer centre, or an eligible college technology transfer centre, as the case may be.

- Recognition of a new eligible competitive intelligence centre

The Quebec Wook Export Bureau (Q-Web), a centre of expertise in wood products, will be recognized as an eligible competitive intelligence centre for the purposes of the tax credit for technology adaptation services.

This recognition will apply regarding eligible expenditures incurred by an eligible corporation after the date of publication of this information bulletin, in relation to products or services offered by the Quebec Wook Export Bureau after that date.

- Withdrawal of an eligible competitive intelligence centre

Because its activities have been transferred to the Bureau de Promotion des Produits Forestiers du Québec, Réseau INFO-BOIS (Réseau d’information sur les produits du bois inc.) will no longer be an eligible competitive intelligence centre after the date of publication of this information bulletin.
2.7 Minimum gross tonnage of a ship standardized at 50 tons

In general, a corporation that carries on a shipbuilding or conversion business can claim a tax credit in this regard, whose rate and upper limit depend on the type of ship built or converted.

To be eligible for the purposes of the tax credit, a ship must be built or converted in Québec as part of a project for which the Minister of Industry and Trade has issued a certificate to the effect that it will constitute a ship with a gross tonnage of at least 50 tons. This minimum gross tonnage was formerly 100 tons and was lowered to 50 tons in the March 14, 2000 Budget Speech. The reduction in gross tonnage applied to construction or conversion expenditures incurred after the March 14, 2000 Budget Speech.

In addition, a deduction is allowed in calculating the paid-up capital of a corporation that acquires a ship, for a period including the taxation years during which the ship was under construction, the year in which it is delivered and the four subsequent years. This deduction is allowed on the basis of the eligible acquisition costs and the eligible conversion costs of the eligible ship, provided the ship satisfies certain requirements and regarding which the Minister of Industry and Trade has issued a certificate to the effect that it constitutes a ship with a gross tonnage of at least 100 tons.

To further encourage shipbuilding and conversion in Québec shipyards, the condition relating to the minimum gross tonnage of these two fiscal measures will be standardized by lowering the minimum gross tonnage from 100 to 50 tons for a ship to be eligible for the deduction a corporation may claim in calculating its paid-up capital.

This change will apply regarding eligible construction or conversion expenditures incurred after the date of publication of this information bulletin.

2.8 Changes to the stock savings plan

Briefly, the stock savings plan (SSP) is a plan that allows an individual to deduct, in calculating his taxable income for a taxation year, the adjusted cost of securities he acquired under this plan no later than December 31, of the year. However, the amount of this deduction, for a year, may not exceed 10% of the individual's "total income" for such year.
The main objective of the plan is to improve the capitalization of small and medium-size Québec companies.

This information bulletin clarifies the specific case of bankrupt corporations whose securities are held in a stock savings plan, and makes a technical change to the rules governing investment funds under this plan.

2.8.1 Specific case of bankrupt corporations

According to the existing rules, to retain the tax benefit relating to the acquisition of SSP securities, an investor must hold an SSP investment for a certain period (mandatory coverage period).

However, to satisfy this condition, the investor need not keep the acquired securities. Briefly, the investor need only hold in his plan, on December 31 of the year of acquisition and December 31 of the subsequent two taxation years, SSP securities whose total adjusted cost is at least equivalent to the amount of SSP deduction claimed during the two preceding taxation years.

When an investor withdraws an SSP security from his plan, the legislation contains provisions for determining whether the mandatory coverage period is satisfied and the tax consequences of insufficient coverage, if any.

Briefly, these provisions stipulate that an SSP investor must include in his income for a taxation year, the lesser of the following amounts:

— the adjusted cost of the SSP securities he withdrew from his plan during the year;

— the excess of the amounts of SSP deductions he received for the two preceding years (less certain adjustments, if any) over the adjusted cost of the SSP securities included in his plan at the end of the year (including those he acquired during the year).

One effect of these provisions is to allow a recapture of the tax benefits equivalent to the shortfall in the plan at the end of the year. To avoid such consequences, the investor must purchase, no later than December 31, SSP securities in an amount equivalent to such shortfall and include these securities in his plan.
Another effect of this formula is that because of the accounting mechanism used, as long as an SSP security is not withdrawn from the plan, the adjusted cost of such security is shown at the *adjusted cost of SSP securities included in the plan at the end of the year* (second component of the second factor of the formula). Accordingly, as of January 1 of the third taxation year following the year of inclusion, the adjusted cost of an SSP security included in the investor's plan offers "additional" coverage as long as the security is not withdrawn from the plan, since the adjusted cost is included in the second component of the second factor of the formula and allows the investor to reduce his eventual need for coverage.

In addition, the tax legislation allows the holder of securities of a bankrupt corporation to make an election according to which the investor is deemed to have alienated his securities for zero value and reacquired them at zero cost immediately thereafter. This mechanism allows an investor to realize a loss in the year of bankruptcy, while ensuring that any remainder from the bankruptcy that the investor may receive in a subsequent year is taxed.

In the context of the SSP, the exercise of such an election would, in the absence of specific rules to that effect, produce a reduction in the second component of the second factor of the formula and could result, if such election is made during the mandatory coverage period, in insufficient coverage. To avoid such consequences, the SSP rules stipulate that the exercise of such an election, regarding SSP securities, does not constitute a withdrawal from the plan. Accordingly, the exercise of such an election does not reduce the second component of the second factor of the formula and, consequently, does not result in insufficient coverage.

Although this rule prevents an investor, during the mandatory coverage period, from being in a situation of insufficient coverage because of the bankruptcy of an SSP corporation, it does produce a situation in which the second component of the second factor of the formula remains artificially high and provides the investor with almost permanent "additional" coverage, though the object of the investment is in practice non-existent.

To end this situation while allowing the investor to continue to be protected against insufficient coverage resulting from the bankruptcy of an SSP corporation during the mandatory coverage period, an adjustment will be made to the legislation.
More specifically, the legislation will be amended to stipulate that a share, security or convertible security of a stock savings plan relating to a bankrupt corporation must be withdrawn from the plan either on January 1 of the third taxation year following the year of inclusion of the share, security or convertible security in a stock savings plan, or on the date of bankruptcy of the bankrupt corporation, whichever occurs later.

This adjustment will apply as of taxation year 2002 regarding a share, security or convertible security relating to a bankrupt corporation and included in a stock savings plan.

For greater clarity, this adjustment will also apply to the share, security or convertible security relating to a bankrupt corporation and held by an investment group or, as the case may be, an investment fund, under the stock savings plan.

2.8.2 Investment fund under the stock savings plan

Briefly, an investment fund under the stock savings plan (IFS) is a mutual fund or open-end investment company that, during a year, makes a public issue of securities and undertakes to acquire, no later than December 31 of the year, eligible shares or eligible convertible securities (eligible securities) with the proceeds, for the year, of the public issue of securities.

Under existing rules, an IFS must undertake to use the proceeds of a public issue of securities solely to acquire eligible securities. Consequently, under existing rules, an IFS cannot use its own funds or the proceeds of temporary financing to acquire eligible securities, to subsequently compensate these funds or repay the proceeds of a temporary financing with the proceeds of a public issue of securities.

The investment community, and more particularly the private investment community in which IFSs are active, often demands great speed from investors.

Since a public issue of securities is not a discrete event but rather a process that unfolds over many weeks, the sequence of events currently imposed on the operation of an IFS restricts the flexibility of these funds. To remedy this lack of flexibility, the legislation will be amended.
More specifically, the legislation will be amended to stipulate that, in addition to what is already allowed by the existing rules under the stock savings plan, an investment fund may acquire, no later than December 31 of a year, eligible shares or eligible convertible securities with the advance proceeds of a public issue of securities, in relation to such year.

For this purpose, the advance proceeds of a public issue of securities, in relation to a year, represents the proceeds of a public issue of securities made by an investment fund before December 31 of such year and used to cover the cost of acquisition of eligible shares or eligible convertible securities acquired by the fund at a given time during the period of 90 days preceding the closing of the public issue of securities.

This change will apply beginning in taxation year 2001.

However, a IFS that makes a public issue of securities after December 31, 2001 and intends to avail itself of these rules regarding the advance proceeds of a public issue of securities must stipulate, in the final prospectus or in the application for a filing exemption relating to such issue, that it undertakes to comply with the requirements stated above regarding the advance proceeds of a public issue of securities.

2.9 Measures concerning culture

2.9.1 Refundable tax credit for Québec film and television production

The refundable tax credit for Québec film and television production applies to labour expenditures incurred by a corporation that produces a Québec film, as this expression is defined in the Regulation respecting the recognition of a film as a Québec film. This tax credit generally corresponds to 33 1/3% of eligible labour expenditures incurred to produce the film.
Extension of the deadline for filing a final certification application

On June 29, 2000, a deadline was introduced for filing a final certification application for the purposes of the refundable tax credit for Québec film and television production. Accordingly, a final certification application regarding a Québec film or television production must now be filed with the Société de développement des entreprises culturelles (SODEC) within the twelve months following the date of recording the master tape or trial print of such production.

Because of a host of circumstances essentially beyond their control, it may be difficult, in some cases, for production companies to meet this deadline.

Accordingly, the regulation will be amended to stipulate that a final certification application regarding a Québec film or television production must be filed with SODEC within 18 months following the end of the corporation's taxation year that includes the date of recording the master tape or trial print of such production. If no application for certification is submitted within this period of time, SODEC may revoke the favourable advance ruling issued regarding a production and the revoked advance ruling will be null and void as of the date it was issued.

This amendment will apply regarding a Québec film or television production for which an advance ruling application has been filed with SODEC after June 29, 2000.

Clarification concerning the filing of a final certification application

The November 1, 2001 Budget Speech announced that a final certification application regarding a Québec film or television production could be filed with SODEC more than twelve months after the date of recording the master tape or trial print of such production, if no application for an advance ruling had previously been filed with SODEC regarding such production.

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2 Ministère des Finances bulletin d'information 2000-4, page 38.
3 Ministère des Finances du Québec, 2002-2003 Budget, Additional Information on the Budgetary Measures, Section 1, pages 61 and 62.
Besides the change to this rule arising from the extension of the deadline for filing a final certification application described above, a maximum period of time during which such final certification application must be filed with SODEC will be introduced. Accordingly, a final certification application regarding a Québec film or television production for which no application for an advance ruling has been or is to be filed with SODEC, must be filed no later than the expiry of the period of limitation applicable for the taxation year of the corporation that includes the date of recording the master tape or trial print of such production, i.e. usually within three years following the notice of first assessment for such taxation year.

This change will apply regarding a Québec film or television production for which a final certification application has been filed with SODEC after June 29, 2000.

Documents to enclose with the final certification application regarding a Québec film or television production

Since July 5, 2001, a corporation is required to enclose with its final certification application regarding a Québec film and television production, an audited cost report or engagement review if the final cost of the production of the film is less than $250 000, certifying that a minimum of 95% of the production cost of the property was paid before the day of the application.4

While corporations can generally prove that they have paid 95% of the production cost of a property at the time of analysis of their final certification application by SODEC, such is not the case when the application is filed. Since the audited cost report is required by some investors before paying their final instalment, some corporations hasten the audit and preparation of this report. Upon reception of this report, corporations submit a final certification application to SODEC, while at the same time submitting the same report to the investors concerned. The inflows of funds received from these investors, following the presentation of the audited cost report, enable the corporation to finalize its production and settle its final accounts payable. The audited cost report enclosed with the final certification application accordingly cannot attest that 95% of the production cost has been paid, since payment of many suppliers depends upon its presentation.

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4 Ministère des Finances bulletin d'information 2001-6, pages 25 and 26.
Accordingly, an amendment will be made to the Regulation respecting the recognition of a film as a Québec film to stipulate that a final certification may not be issued for a Québec film and television production unless a corporation proves, to the satisfaction of SODEC, that 95% of the production cost of the property regarding which such application was filed, has been paid. A corporation may in particular provide the required proof by presenting a special report issued on a date following the audited cost report. For greater clarity, the requirement to enclose with the final certification application an audited cost report certifying that 95% of the production cost has been paid will be withdrawn.

This change will apply regarding a film or television production for which a final certification application is filed with SODEC after July 5, 2001.

2.9.2 Refundable tax credit for the production of shows

The refundable tax credit for the production of shows was introduced to support the activities of businesses operating in this field. Briefly, an eligible corporation can, under certain conditions, claim a refundable tax credit equal to 33 1/3% of labour expenditures it incurs for the purposes of producing an eligible show.

However, the labour expenditures giving rise to this tax credit may not exceed 45% of production expenses of the show, so that the tax assistance may not exceed 15% of such expenses. In addition, the tax credit allowed regarding an eligible show may not exceed $300 000.

For the purposes of the tax credit for the production of shows, the eligible labour expenditures, for a taxation year of an eligible corporation, include wages or salaries as well as the portion of remuneration, other than a wage or salary, incurred by the corporation, in the year, and directly attributable to the production of the eligible show, for the period of production from the pre-production of the show until the end of the third year following the first public performance of the show.

In this regard, remuneration, including a wage or salary, also includes remuneration based on the profits or receipts from the performance of the show when such remuneration is paid to a singer or a musician.
Since the tax credit for the production of shows was opened to comedy, drama, mime and magic shows, performing artists, other than singers and musicians, can also be remunerated on the basis of the profits or receipts from the performance of an eligible show.

Accordingly, the tax legislation will be amended so that remuneration, including a wage or salary, paid to a performing artist, that is based on the profits or receipts from the performance of the show, may be considered an eligible labour expenditure if it is directly attributable to the production of an eligible show, for the production period from the pre-production of the show until the end of the third year following the first public performance of the show, and it is incurred by an eligible corporation in the course of that period.

This change will apply regarding labour expenditures otherwise eligible for this tax credit, incurred after July 5, 2001.

2.9.3 Concordance adjustment under certain refundable tax credits in the cultural field

Since June 29, 2000, if two corporations succeed each other during the development and production of a Québec film because, for example, of a change in ownership of the property, each of these corporations may claim a tax credit for Québec film and television production regarding the expenditures incurred to produce this property, if each of them is a corporation otherwise eligible for the purposes of the tax credit and if the certification criteria of the property stated in the Regulation respecting the recognition of a film as a Québec film are satisfied throughout the course of the production of the property.

Like the situation covered in the case of the refundable tax credit for Québec film and television production, it is possible for two corporations to succeed each other during the course of the production of a property under other refundable tax credits in the cultural field. Such is the case when a corporation continues the production of a show, a sound recording, a dubbed version of a production or a book or group of books, after the first corporation has ceased to do so because, for instance, of bankruptcy or sale of the ownership rights to the property.

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5 Ministère des Finances bulletin d’information 2001-6, pages 27 and 28.
6 Ministère des Finances bulletin d’information 2000-4, pages 35 to 37.
Provided a show, a sound recording, a dubbed version of a production, a book or group of books meets the certification criteria otherwise stipulated, an eligible corporation that succeeds another eligible corporation in the continuation of the production of the property should be able to obtain a certification from SODEC and claim a tax credit regarding expenditures it has incurred in the course of production of such property, even if the first eligible corporation holds a valid certificate from SODEC allowing it to claim a tax credit regarding other expenditures previously incurred in relation to the production of this property.

Accordingly, the rules applicable thereto will be amended to stipulate that two eligible corporations may succeed each other in the course of the production of a property for the purposes of the tax credit for the production of shows, the tax credit for the production of sound recordings, the tax credit for film dubbing or the tax credit for book publishing, and that each of them may claim such a tax credit regarding expenditures otherwise eligible that it incurred in the course of production of such property, provided the latter satisfies the applicable certification criteria and that each of the eligible corporations holds a valid certificate issued by SODEC in relation to such property.

This change will apply retroactively to the effective date of the tax credit for shows, the tax credit for the production of sound recordings, the tax credit for film dubbing and the tax credit for book publishing.

2.9.4 Clarification concerning coordination of certain refundable tax credits relating to the cultural field

As of October 20, 2000, there is a maximum time limit for filing a final certification application with SODEC for the purposes of claiming refundable tax credits for dubbing, the production of shows, the production of sound recordings and for book publishing. In addition, the November 1, 2001 Budget Speech contained the announcement that such application could be filed with SODEC after the applicable deadline if an application for an advance ruling has never been sought for the property for which the application is filed.

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7 Ministère des Finances bulletin d’information 2000-6, pages 12 to 14.
8 Ministère des Finances du Québec, 2002-2003 Budget, Additional Information on the Budgetary Measures, Section 1, pages 63 and 64.
Changes to these rules, having the same effect as those announced for the refundable tax credit for Québec film and television production, will be made for the tax credit for dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing, to extend to 18 months from the end of the corporation's taxation year that includes the completion date otherwise applicable to the property regarding which an application is filed, the time period for filing a final certification application for the purposes of these tax credits.

Furthermore, changes will be made, for the purposes of the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing, to stipulate that a final certification application must be formulated with SODEC no later than the expiry of the period of limitation applicable for the taxation year of the corporation that includes the date of completion otherwise applicable to the property, if the property is one regarding which an application for an advance ruling has never been filed.

These changes will apply as follows:

— in the case of the refundable tax credit for dubbing, regarding a dubbed production for which the dubbed master tape is completed after October 20, 2000;

— in the case of the refundable tax credit for the production of shows, regarding a show for which one of the three periods regarding which a tax credit may be claimed is completed after October 20, 2000;

— in the case of the refundable tax credit for the production of sound recordings, regarding a sound recording for which the master tape is completed after October 20, 2000;

— in the case of the refundable tax credit for book publishing, regarding a book or a group of books for which the first printing or the first printing of the last printed book, as the case may be, is completed after October 20, 2000.

2.9.5 Québec giant screen film industry

The ministère des Finances is currently studying the particular situation of the Québec giant screen film industry and changes to fiscal policy in this regard, that may apply retroactively from the date of publication of this information bulletin, may be announced in the near future.
3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Clarification concerning the exemption of school transportation services

The Québec sales tax (QST) system includes an exemption for school transportation services supplied by a school authority to an elementary or secondary school student. Because of this exemption, school authorities are only entitled to a partial rebate of 47% of the QST paid regarding the inputs acquired to supply this transportation service.

These inputs, which for most school authorities consist essentially of the services of sub-contractors, are entirely acquired through grants paid by the Québec government, which make it possible to provide free school transportation for students before the beginning of classes and after the end of classes each day.

Because of the existence of these government grants, many school authorities have claimed a total rather than partial rebate of the QST paid regarding their inputs, maintaining that the school transportation service is a taxable service supplied to the Québec government and not an exempt service supplied to students.

In response to the refusal of the tax authorities to pay the rebate claimed, some school authorities have brought their case to the courts. Although, with regard to QST, the cases have yet to be heard by the Court of Québec, the Federal Court of Appeal recently brought down a decision favourable to school authorities concerning the same issue with respect to the goods and services tax.

In this context, before the courts in Québec consider this issue, changes will be made to the QST system to reaffirm the Québec government’s intention to exempt school transportation services. Such changes are needed not only because fiscal policy always was to the effect of exempting such services, but also because allowing the claims of the school authorities would deprive public finances of several tens of millions of dollars, to raise grants that have been set in recognition that the taxes were only partially rebated.

Accordingly, the QST system will be amended to specify, by declaration, that the supply of a transportation service of elementary or secondary school students to or from a school of a school authority is exempt if such supply is made by a school authority to a person who is not another school authority.
3.2 Application of the exchange rule to transfers of road vehicles made by large businesses

The QST system stipulates that if a supplier accepts in full or partial consideration for the supply of a corporeal movable property made to a recipient, a used corporeal movable property he acquires for the purposes of his commercial activities, the value of the consideration for the supply made by the supplier may be reduced by the amount credited to the recipient regarding the used corporeal movable property.

According to the application conditions of this exchange rule, registered businesses may never benefit from it if they give in exchange to their supplier a used corporeal movable property that was used in the course of their commercial activities. In general, the non-application of the exchange rule does not penalize these businesses since they can recover the QST paid regarding property acquired in the course of their commercial activities through the input tax refund (ITR) mechanism. However, this is not the case for large businesses covered by the restriction on obtaining an ITR regarding certain road vehicles.

To correct this situation, the QST system will be changed so that large businesses may benefit from this rule when they give in exchange to their supplier a used road vehicle regarding which they were unable to obtain an ITR because of the stipulated restriction in this regard.

This measure will apply regarding such a vehicle given in exchange by a large business after the publication date of this information bulletin.

3.3 Changes to the rebate of the QST paid by an exporter regarding an automotive vehicle

The QST system stipulates that an automotive vehicle purchased solely for resale or for lease for at least one year is zero-rated, and that the purchaser of such vehicle may not obtain a rebate from the tax authorities of the QST he may have paid regarding such vehicle despite its zero-rating.
However, since July 1, 1999, an exporter who paid the QST regarding a zero-rated automotive vehicle is exceptionally allowed to obtain the rebate of such tax from the tax authorities in very specific circumstances. Accordingly, such a rebate can be obtained by an exporter if, in particular, the QST he paid relates to a new automotive vehicle that he purchased from an automotive vehicle dealer whose establishment is located in Québec, through a non-registered mandatary who was required to register it. In addition, the exporter must have had the vehicle’s registration cancelled, because of its export outside Canada, within fifteen days of its delivery to the mandatary by the dealer, and he must have exported it outside Canada within a reasonable time after such delivery.

Since this rebate was introduced, it appears that some of the conditions that must be satisfied to obtain it could be eased. Consequently, changes will be made to the QST system so that the rebate may be obtained by an exporter even if the establishment of the automotive vehicle dealer where he purchases the vehicle is not located in Québec. Furthermore, the requirement that the vehicle be exported outside Canada will be replaced by a requirement that it be shipped outside Québec.

These changes will apply retroactively to July 1, 1999.

3.4 Continuation of exemption of speech therapy services

Speech therapy services, which currently are part of health care services exempt from the QST, should in principle become taxable as of January 1, 2002, since the transition period stipulated to enable the professionals providing such services to satisfy the exemption criterion will expire on that date.

However, since speech therapists are on the verge of satisfying this criterion, the exemption of speech therapy services will be continued for another year, i.e. until December 31, 2002.
4. OTHER FISCAL MEASURES

4.1 Streamlining regarding real estate investments by labour-sponsored funds

The Fonds de solidarité des travailleurs du Québec (F.T.Q.) and Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi, can, in general, invest in any entity, with or without security or guaranty.

However, the acts of incorporation of these two labour-sponsored funds stipulate that during each fiscal year, the share of investments held by these funds in eligible businesses – entailing no guaranty or hypothec – must represent, on average, at least 60% of their average net assets for the preceding year. For this purpose, an eligible business means, in general, a small or medium-size actively operated entity the majority of whose employees are residents of Québec.

For the purposes of this investment requirement, some real estate investments made by these labour-sponsored funds may be recorded as investments in eligible businesses, up to 5% of their net assets at the end of the preceding fiscal year.

Essentially, these are investments made in new properties or properties under substantial renovation, producing revenue and located in Québec, with the exclusion of properties intended mainly for housing or shopping center purposes, unless they are part of a project in the recreation-tourism sector.

Given of anticipated needs for new dwellings, the acts of incorporation of these labour-sponsored funds will be amended respectively to eliminate the exclusion relating to investments in properties intended mainly for housing purposes.

This change will apply regarding real estate investments made after the day of publication of this information bulletin.
4.2 Analysis of the tax system applicable to trusts and their beneficiaries

The tax system applicable to trusts and their beneficiaries stipulates rules allowing, in some situations, some flexibility regarding income splitting for tax purposes between a trust and its beneficiaries. These rules are usually designed to recognize certain specific situations regarding estate management, while maintaining an overall tax burden, regarding the income from the assets held by a trust, that is relatively adequate in regard to the nature of such income.

In the current context of provincial taxation in Canada, the existence of such flexibility can, in some circumstances, give rise to tax planning designed to unduly reduce the overall provincial tax regarding income from the assets held in trust.

Over the coming months, the ministère des Finances will analyze the tax system applicable to trusts and their beneficiaries to assess whether the flexibility currently allowed by the system is adequate in current context of provincial taxation in Canada.

As part of this analysis, special attention will be paid to the concept of the tax "residence" of a trust and to inappropriate tax planning that may arise from this concept, as well as to the rules of attribution of income applicable to situations involving a trust.

Should the result of this analysis indicate that the current system is not completely satisfactory with respect to compliance with Québec fiscal policy in this field, appropriate corrective action will be announced and may, if need be, apply as of taxation year 2001, or even before in cases of evasion of a provincial tax.

4.3 Adjustments relating to duties on transfers of immovables

The Act respecting duties on transfers of immovables (ADTI) stipulates that the transfer of an immovable gives rise to the payment of a transfer duty, by the purchaser, to the municipality where the immovable is located.

However, the ADTI also stipulates an exemption of these duties in some situations, in particular when the transfer of an immovable is made between persons of the same family or between members of the same corporate group. This is also the case when the transfer is made by a transferor that is a non-profit legal person to a transferee that is also a non-profit legal person, where 90% of the members of one of these legal persons are, at the time of the transfer, members of the other.
To better harmonize the ADTI with Québec’s fiscal policy regarding certain transfers of assets, a clarification designed to extend the scope of certain existing exemptions in the ADTI will be made, and a new exemption will be added.

- **Transfer to or from a trust**

In general, the transfer of an immovable between members of the same family by means of a trust is exempt from payment of the duty on transfers. More specifically, under existing rules, the ADTI stipulates an exemption from payment of the duty on transfers, in particular in the following situations:

- transfer of an immovable to a transferee that is a trust, when the transferor and the person in whose benefit the trust is established are related persons;

- transfer of an immovable by a trust to the natural person in whose benefit the trust is established, when such person and the one who transferred the immovable to the trust are related persons.

According to the relevant rules of the ADTI, a person is not related to himself.

The absence of such a rule means these provisions do not apply when the person who transferred the immovable to the trust in the first place is also the beneficiary of the trust.

To enable the application of these provisions when the person who transferred the immovable to the trust in the first place is also the beneficiary of the trust, a clarification will be made to the ADTI.

More specifically, section 20 of the *Act respecting duties on transfers of immovables* will be amended to stipulate that for the purposes of paragraphs e) and e.1) of such section, a person is deemed to be related to himself.

This clarification will apply as of the day following the day of publication of this information bulletin, in relation to the transfer of an immovable occurring on that day or after that day.
Transfer between registered charities

A registered charity (RC) for the purposes of the Taxation Act is a tax-exempt organization. Briefly, in addition to the exemption from income tax it enjoys, an RC also has a privilege allowing it to issue tax receipts for charitable donations.

The special tax treatment of an RC is usually based on the recognition, by the tax authorities, of the ongoing charitable work performed by such an organization.

In view of the general fiscal policy regarding such organizations, a new exemption from payment of the duty on transfers will be added to the ADTI.

More specifically, the Act respecting duties on transfers of immovables will be amended to stipulate an exemption from payment of the duty on transfers by the transferee of a transfer of an immovable, if the transferor and the transferee of the transfer are, at the time of the transfer, registered charities for the purposes of the Taxation Act.

This amendment will apply as of the day following the day of publication of this information bulletin, in relation to the transfer of an immovable occurring on that day or after that day.
5. MEASURES CONCERNING FEDERAL FISCAL LEGISLATION AND REGULATION

5.1 Federal Budget Speech of December 10, 2001

On December 10, 2001, the Minister of Finance of Canada tabled, in the House of Commons, supplementary information as well as a Notice of Ways and Means Motion to amend the Income Tax Act. Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, these measures will only be adopted once any federal legislation arising from such notice of motion is assented to or after the adoption of any federal regulation arising from the supplementary information, taking into account the technical changes that may be made before approval or adoption. They will apply on the same dates as for federal income tax purposes.

Measures retained

Québec's tax legislation and regulations will be amended to include, with adaptations based on their general principles, the measures relating to:

- tool expenditures by apprentice vehicle mechanics (BR 1 and 2);\(^9\)
- the deduction of assistance granted under certain government programs for the payment of tuition fees attributable to basic adult education (BR 3), with the provision that it shall include, without distinction, any assistance received for the payment of such fees as part of an active employment measure set up by Emploi-Québec;
- the promotion of sustainable development of wood lots (BR 5);
- the use of the services of Canadian investment managers (BR 10);
- construction worker camps (BR 11);
- improvements to tax incentives for renewable energy and energy efficiency;\(^10\)
- Farm Credit Canada.\(^11\)

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\(^9\) The references between parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to amend the *Income Tax Act* tabled December 10, 2001.


\(^11\) *Id.*, page 226.
In addition, although the ministère des Finances has already stated its position on the measure dealing with donations of publicly traded securities (BR 6), it is appropriate to repeat that this measure will be incorporated into Québec's tax legislation.

- Measures not retained -

Certain measures have not retained because Québec's tax system does not contain corresponding provisions. This applies to the measures on the education tax credit (BR 4) and to qualified limited partnerships (BR 9).

Other measures have not been retained because Québec's tax system is satisfactory in this regard. Such is the case with the measure regarding the quarterly reassessment of the tax credit for the goods and services tax (BR 7) and the measure concerning the deferral of tax instalments of small businesses (BR 8).

5.2 Department of Finance Canada news release 2001-121 issued on December 18, 2001

On December 18, 2001, the Minister of Finance of Canada announced, in a news release, that for 2002, the various limits and rates governing the deductibility of automobile expenses and the calculation of the value of the taxable benefits relating to the use of an automobile would be maintained at their current levels.

In this regard, in keeping with the principle of substantial harmonization of tax legislation regarding automobiles, the various limits and rates governing the deductibility of automobile expenses and the calculation of the value of the taxable benefits relating to the use of an automobile contained in Québec's tax legislation and regulations will remain unchanged in 2002.

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12 Ministère des Finances du Québec, 2002-2003 Budget, Additional Information on the Budgetary Measures, Section 1, page 74.

13 Department of Finance Canada news release 2001-121.