

EXTENSION OF THE CREDIT ON EMPLOYERS CONTRIBUTION TO THE HEALTH SERVICES FUND IN RESPECT OF EMPLOYEES ON PAID LEAVE AND OTHER MEASURES RELATING TO VARIOUS FISCAL TIME LIMITS

This information bulletin announces the extension until August 29, 2020 of the credit on employers contribution to the Health Services Fund in respect of employees on paid leave.

It also announces the postponement until September 1, 2020 of the payment of the tax balance payable by trusts for 2020.

Lastly, it makes public the amendments to tax legislation to attribute, in certain cases, a discretionary power to the Minister of Revenue that allows him to extend the time limit for applying for tax incentives intended for businesses.

To obtain information on the matters dealt with in this information bulletin, contact the Secteur du droit fiscal, de l'optimisation des revenus et des politiques locales et autochtones at 418-691-2236.

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1. EXTENSION OF THE CREDIT ON EMPLOYERS CONTRIBUTION TO THE HEALTH SERVICES FUND IN RESPECT OF EMPLOYEES ON PAID LEAVE

Under *Canada's COVID-19 Economic Response Plan*, the federal government announced the establishment of the Canada Emergency Wage Subsidy.¹

Briefly, the Canada Emergency Wage Subsidy comprises a subsidy corresponding to 75% of the wages paid by a qualifying entity to its eligible employees, up to \$847 per employee per week, and the reimbursement of employers contributions to employment insurance, the Canada Pension Plan, the Québec Pension Plan and the Québec Parental Insurance Plan that the qualifying entity must pay on the wages paid to its eligible employees for the weeks during which they are on paid leave.

To be a qualifying entity, an employer must, by way of an example, be an individual, a taxable corporation, a non-profit organization, a registered charity, or a partnership that meets certain conditions with respect to its members. The employer must experience a decrease in income of at least 15% in March 2020 and at least 30% in April and May 2020.

To complement the Canada Emergency Wage Subsidy, the Ministère des Finances du Québec announced, on April 30, 2020, the establishment of the credit on employers contribution to the Health Services Fund in respect of employees on paid leave.²

Accordingly, an employer with an establishment in Québec that can, for a qualifying period, benefit from the Canada Emergency Wage Subsidy can also, in respect of this qualifying period, benefit from the credit on employers contribution to the Health Services Fund. The credit on employers contribution to the Health Services Fund that such an employer can request corresponds to the amount of the contribution to the Health Services Fund that it pays in respect of the wages that it pays to a specified employee for a week included in the qualifying period when the employee is on paid leave.

The Canada Emergency Wage Subsidy was initially granted for three qualifying periods, that is, for the period beginning on March 15, 2020 and ending on April 11, 2020, the period beginning on April 12, 2020 and ending on May 9, 2020, and the period beginning on May 10, 2020 and ending on June 6, 2020. The credit on employers contribution to the Health Services Fund in respect of employees on paid leave is granted in regard of the same qualifying periods.

On May 15, 2020, the federal Minister of Finance announced a 12-week extension to August 29, 2020 of the Canada Emergency Wage Subsidy.³

¹ Department of Finance Canada, *Canada Emergency Wage Subsidy*, available at <https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy.html>. See also the *Second Act respecting certain measures in response to COVID-19* (S.C. 2020, c. 6) assented to on April 11, 2020.

² Ministère des Finances du Québec, *Information Bulletin 2020-7*, April 30, 2020.

³ Department of Finance Canada, "Government extends the Canada Emergency Wage Subsidy," May 15, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/05/government-extends-the-canada-emergency-wage-subsidy.html>. See also: Department of Finance Canada, "Extending eligibility for the Canada Emergency Wage Subsidy," May 15, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/05/extending-eligibility-for-the-canada-emergency-wage-subsidy.html>.

Consequently, to ensure that employers can benefit from the credit on employers contribution to the Health Services Fund for the same periods as those in respect of which they can obtain the Canada Emergency Wage Subsidy, the credit on employers contribution to the Health Services Fund in respect of employees on paid leave will also be extended until August 29, 2020.

In this respect, for the application of the credit on employers contribution to the Health Services Fund in respect of employees on paid leave, the new qualifying periods will begin and end on the same dates as the new qualifying periods begin and end for the application of the Canada Emergency Wage Subsidy.

Moreover, the federal Minister of Finance also announced, last May 15, changes to the Canada Emergency Wage Subsidy to also make qualified other entities, such as registered journalism organizations, non-public educational and training institutions, Indigenous Governments-owned businesses, registered Canadian amateur athletic associations, and certain partnerships. What is more, it announced that legislative amendments would be proposed to ensure the proper application of the Canada Emergency Wage Subsidy to corporations resulting from the amalgamation of two or more corporations and in order to better harmonize the treatment of trusts and corporations from the standpoint of eligibility for the Canada Emergency Wage Subsidy.⁴

These changes will be adopted for the application of the credit on employers contribution to the Health Services Fund in respect of employees on paid leave although they do not require any amendment of Québec tax legislation.

2. POSTPONEMENT UNTIL SEPTEMBER 1, 2020 OF THE PAYMENT BY A TRUST OF A TAX BALANCE PAYABLE FOR 2020 TAXATION YEAR

A trust must pay its tax balance payable, for a taxation year, not later than the balance-due day applicable to it for the year, which is, usually, not later than the 90th day following the end of the taxation year. It must also, in some circumstances, pay tax instalments.

At the time of publication of *Information Bulletin 2020-3*⁵ and *Information Bulletin 2020-4*⁶ in the context of the adoption of COVID-19-related measures, the Ministère des Finances announced the postponement until September 1, 2020 of the payment by a trust (other than a specified investment flow-through trust) of the tax balance payable for the 2019 taxation year that would otherwise be due as of March 17, 2020.⁷

In the same way, it was announced that the payment of the tax instalment payable by a trust (other than a specified investment flow-through trust) not later than June 15, 2020 could be made not later than September 1, 2020.

⁴ *Ibid.*

⁵ Ministère des Finances du Québec, *Information Bulletin 2020-3*, March 17, 2020, pages 2-4.

⁶ Ministère des Finances du Québec, *Information Bulletin 2020-4*, March 18, 2020.

⁷ At the time of publication of *Information Bulletin 2020-3*, the Ministère des Finances du Québec announced the postponement until July 31, 2020 of this payment. In *Information Bulletin 2020-4*, the deferment of the payment until July 31, 2020 was postponed to a date subsequent to August 31, 2020, which corresponds to September 1, 2020, as the Revenu Québec website indicates (see <https://www.revenuquebec.ca/en/coronavirus-disease-covid-19/relief-measures-for-individuals-and-businesses/>, in the “Payments” section).

The Government of Canada has announced the postponement until September 1, 2020 of the payment of the tax balance payable and tax instalments of a trust that would otherwise have been payable during the period starting March 18, 2020 and ending August 31, 2020, without limiting the application of this deferment to the tax balance payable by a trust for the 2019 taxation year.

In order to harmonize the COVID-19-related postponement measures respecting the payment of tax instalments and tax balances payable by trusts under the Québec taxation system with those under the federal taxation system, the tax balance payable by a trust for its taxation year ended during the 2020 calendar year, which would otherwise be payable before September 1, 2020, can be paid not later than September 1, 2020.

3. ADDITION OF A DISCRETIONARY POWER TO EXTEND THE TIME LIMIT FOR FILING APPLICATIONS FOR TAX INCENTIVES INTENDED FOR BUSINESSES

To benefit from a refundable tax credit⁸ for businesses, for a taxation year, a taxpayer must file with the Minister of Revenue the prescribed form relating to the refundable tax credit containing the prescribed information not later than the day that is the last of the following days:⁹

- the last day of the 12-month period following the filing-due date¹⁰ applicable to the taxpayer for the taxation year;
- the last day of the three-month period that follows the date of issue of the sectoral document that the taxpayer must file with the Minister of Revenue for the purposes of the refundable tax credit for this taxation year, where applicable.¹¹

In the same way, a taxpayer that wishes to deduct in the calculation of its income, for a taxation year, scientific research and experimental development expenditures must file with the Minister of Revenue the prescribed form containing the prescribed information in respect to the expenditures not later than 12 months after the filing-due date applicable to it for the taxation year.¹²

⁸ For greater clarity, the amendments announced in this Information Bulletin will also apply to the non-refundable tax credit for international financial centres, the non-refundable tax credit for the development of e-business, and the capital synergy tax credit (Ministère des Finances du Québec, *Budget 2020-2021 – Additional information on the fiscal measures*, March 10, 2020, pages A.27-A.37).

⁹ *Taxation Act*, section 1029.6.0.1.2.

¹⁰ *Taxation Act*, section 1, definition of the expression “filing-due date.” In the case of a corporation, this date corresponds, for a taxation year, to the end of the six-month period that follows the end of this taxation year (*Taxation Act*, section 1000, paragraph 2, subparagraph a).

¹¹ When a sectoral document must be filed with the Minister of Revenue to obtain a refundable tax credit, a copy of the document can either accompany the prescribed form relating to the refundable tax credit or be appended subsequently to the form when the sectoral document has been duly obtained from the sectoral organization concerned (Ministère des Finances du Québec, *Information Bulletin 2017-14*, December 20, 2017, pages 14-16).

¹² *Taxation Act*, section 230.0.0.4.1.

Such deadlines are referred to hereinafter as the “fiscal deadline.”

Failure to file with the Minister of Revenue the prescribed form containing the prescribed information before the expiry of the applicable fiscal deadline deprives the taxpayer of the right to benefit from the refundable tax credit or to deduct the scientific research and experimental development expenditures.

Moreover, under certain circumstances, the tax legislation empowers the Minister of Revenue to extend a deadline set pursuant to tax legislation, especially the deadline for filing a return or report or to provide information.¹³ However, since 2006, the discretionary power can neither be exercised in respect of the filing of a prescribed form relating to a refundable tax credit for businesses nor in respect of the prescribed form to request the deduction respecting scientific research and experimental development expenditures.¹⁴

A taxpayer may, however, be unable to file with the Minister within the applicable fiscal deadline such a prescribed form, as could be the case at present due to the COVID-19 pandemic.

The tax legislation will, therefore, be amended to grant the Minister of Revenue a discretionary power allowing him, when there are reasonable grounds to do so, to agree to the prescribed form relating to a refundable tax credit or the prescribed form to request the deduction of scientific research and experimental development expenditures being filed after the expiry of the applicable fiscal deadline. However, the Minister of Revenue will exercise such discretionary power under exceptional circumstances.

To benefit from such an extension of the time limit, the taxpayer must apply in writing to the Minister of Revenue. The application must be accompanied, as the case may be, by the prescribed form relating to the refundable tax credit containing the prescribed information and the sectoral document duly obtained and necessary for the purposes of the tax credit, where appropriate, or the prescribed form to request the deduction of scientific research and experimental development expenditures containing the prescribed information. The application must also satisfy any other requirement that the Minister establishes.

The Minister of Revenue may grant an additional period to the taxpayer to file the tax incentive application form if he is satisfied with the proof that the taxpayer submits, and the facts warrant extending the deadline. The additional period cannot under any circumstances end after the last day of the one-year period that follows the end of the fiscal deadline otherwise applicable.

Lastly, the Minister’s decision whether to extend the deadline to submit a tax incentive application intended for businesses is neither subject to objection nor appeal.

¹³ *Tax Administration Act*, section 36.

¹⁴ *Tax Administration Act*, section 36.0.1. See also: Ministère des Finances du Québec, *Budget 2006-2007, Additional Information on the Budgetary Measures*, March 23, 2006, Section 1, pages 164-166. For a taxation year that began before March 27, 2015, the Minister of Revenue could, however, accept following the expiry of the 12-month time limit following the filing-due date the filing of a refundable tax credit form owing to the belated issuing of a sectoral document necessary for the purposes of the refundable tax credit (Ministère des Finances du Québec, *Budget 2015-2016 – Additional information on the fiscal measures*, March 26, 2015, pages A.105-A.108).

For greater clarity, no change is being made to the deadline within which an application must be submitted to a sectoral organization for it to issue a sectoral document necessary for the purposes of a refundable tax credit.¹⁵

□ **Date of application**

The amendments to the tax legislation will apply to a taxation year in respect of which the fiscal deadline applicable to file a prescribed form relating to a refundable tax credit for businesses or to file the prescribed form to request the deduction respecting scientific research and experimental development expenditures, as the case may be, ends after March 16, 2020.¹⁶

They will also apply in any of the given following situations:

- a taxation year in respect of which the fiscal deadline applicable to file a prescribed form relating to a refundable tax credit for businesses or to file the prescribed form to request the deduction respecting scientific research and experimental development expenditures, as the case may be, ended in the period that began on March 17, 2019, and that ended on March 16, 2020;
- a given taxation year when all the following conditions are met:
 - the prescribed form relating to the refundable tax credit containing the prescribed information or the prescribed form to request the deduction respecting scientific research and experimental development expenditures containing the prescribed information, as the case may be, for the given taxation year, was filed with the Minister of Revenue within a 12-month period following the expiry of the applicable fiscal deadline related to the given year;
 - on the day of publication of this Information Bulletin, the deadline to submit a notice of objection or to bring an appeal had not expired or at any time within the period that began on March 17, 2019 and that ended on the day of this publication the taxation year was subject to an objection or an appeal before a court of competent jurisdiction;
 - the objection or the appeal, where applicable, hinged on the Minister of Revenue's refusal to grant the taxpayer the refundable tax credit or the deduction of scientific research and experimental development expenditures because of the filing after the expiry of the applicable fiscal deadline of the applicable prescribed form.

¹⁵ *Act respecting the sectoral parameters of certain fiscal measures*, section 9.1.

¹⁶ Revenu Québec has postponed until June 1, 2020 the deadline applicable to several administrative actions whose deadline otherwise occurs during the period beginning on March 17, 2020 and ending on May 31, 2020. The deferment concerns, in particular, the deadline for submitting a prescribed form relating to a refundable tax credit (see: <https://www.revenuquebec.ca/en/coronavirus-disease-covid-19/relief-measures-for-individuals-and-businesses/>, in the "Other measures" section).

In either of the given situations, the changes will only apply if the taxpayer submits to the Minister of Revenue a request in writing to extend the deadline not later than the 183rd day following the day of publication of this Information Bulletin. The application must be accompanied, as the case may be, by the prescribed form relating to the refundable tax credit containing the prescribed information and the sectoral document duly obtained and necessary for its purposes, where appropriate, or the prescribed form to request the deduction respecting scientific research and experimental development expenditures containing the prescribed information. The Minister can also demand the submission of any document or information required to exercise his discretionary power.

Lastly, for greater clarity, in cases where the Minister of Revenue exercises his discretionary power in any of the given situations and accepts the belated filing of the prescribed form relating to the refundable tax credit or the prescribed form to request the deduction respecting scientific research and experimental development expenditures, as the case may be, the prescribed form accompanying the request to extend the deadline will be treated as an initial refundable tax credit application or an initial application for the deduction respecting scientific research and experimental development expenditures for the calculation of interest on the refund, as the case may be.