

## HARMONIZATION WITH THE JANUARY 19, 2021 PRESS RELEASE OF THE DEPARTMENT OF FINANCE CANADA TO TEMPORARILY MODIFY RULES FOR CERTAIN DEDUCTIONS

On January 19, 2021, the Department of Finance Canada issued a press release<sup>1</sup> proposing changes to the federal tax system regarding the child care expenses deduction and the disability supports deduction. The proposed changes are intended to provide a temporary exception in respect of regular employment insurance benefits, including special benefits, for the application of these two deductions.

In brief, under the current federal tax provisions, a taxpayer is eligible for the child care expenses deduction and the disability supports deduction, subject to other conditions, when the expenses referred to for the application of each of these deductions are incurred to earn employment or business income, pursue education or carry on research (conditions referred to hereinafter as the “purpose test”).

Moreover, unlike the Canada Emergency Response Benefit and other emergency income benefits related to COVID-19, employment insurance benefits and parental insurance benefits<sup>2</sup> are not included in the definitions of “income” used when calculating these two deductions in federal tax legislation.

The proposals released by the Department of Finance Canada therefore amend the federal *Income Tax Act* to temporarily allow Canadians receiving employment insurance benefits, COVID-19 income support measures or parental insurance benefits to claim the child care expenses deduction and the disability supports deduction without having to meet the purpose test.

In addition, the legislative proposals are intended to temporarily modify the definitions of “income” used when calculating these deductions to include amounts relating to employment insurance and parental insurance.

These changes would only apply for the 2020 and 2021 taxation years.

Québec tax legislation is generally harmonized with federal tax legislation regarding the refundable tax credit for childcare expenses and the disability supports deduction, as well as with elements used to calculate income for the application of these measures.

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<sup>1</sup> DEPARTMENT OF FINANCE CANADA, *Government Publishes Draft Legislative Proposals to Adjust Certain Deductions for Employment Insurance and COVID-19 Benefits*, [Online], January 19, 2021, [<https://www.canada.ca/en/department-finance/news/2021/01/government-publishes-draft-legislative-proposals-to-adjust-certain-deductions-for-employment-insurance-and-covid-19-benefits.html>].

<sup>2</sup> In Québec, these are parental insurance benefits paid under the Québec Parental Insurance Plan, established by the *Act respecting parental insurance* (CQLR, chapter A-29.011).

Québec tax legislation will thus be modified only for the 2020 and 2021 taxation years, in order to incorporate into it, by adapting them according to its general principles, the proposed changes to the federal tax system to:

- suspend the application of the purpose test for the refundable tax credit for childcare expenses and for the disability supports deduction when a person has received, in the course of the year, employment insurance benefits, parental insurance benefits or government assistance amounts;
- include employment insurance and parental insurance benefits when calculating income for the disability supports deduction.<sup>3</sup>

The adjustments made to the Québec tax system will only be adopted after the assent of any federal legislation implementing the proposed changes to federal tax legislation and will take into account any technical adjustments that may be made prior to assent. The modifications to Québec tax legislation will apply on the same dates as those provided for the application of the federal provisions with which they are harmonized.

It should be noted that Québec tax legislation already provides, since 2009, that child care expenses incurred during any period of the year during which an individual receives benefits related to a birth or an adoption, under the *Act respecting parental insurance*, the *Employment Insurance Act* or similar legislation of a province other than Québec, are eligible for the refundable tax credit for child care expenses.

For information regarding 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 by email at: [secteurdroitfiscalitdelafiscalite@finances.gouv.qc.ca](mailto:secteurdroitfiscalitdelafiscalite@finances.gouv.qc.ca).

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<sup>3</sup> The income used to determine the refundable tax credit for childcare expenses already includes parental insurance benefits, employment insurance benefits and various other benefits.