

CHANGES TO VARIOUS TAX MEASURES AND HARMONIZATION WITH CERTAIN FEDERAL TAX MEASURES

This information bulletin makes public changes that will be made to certain tax measures that affect individuals or businesses.

To this end, it sets out in detail the consequential amendments that will be introduced to Québec's tax legislation and regulations to take into account, on the one hand, the coming into force of the new Basic Income Program for persons with a severely limited capacity for employment and, on the other hand, the amendments to the *Regulation respecting child care services provided at school*.

In addition, it reports on the changes that will be made to the tax system to extend the tax credits aimed at encouraging the creation of new financial services corporations and to clarify the tax treatment of the federal critical mineral exploration tax credit.

Lastly, it outlines the Ministère des Finances' position on the Government of Canada's recently introduced Canada Dental Benefit and on federal proposals relating to the goods and services tax and the harmonized sales tax system.

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WITH CERTAIN FEDERAL TAX MEASURES**

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1. CONSEQUENTIAL AMENDMENTS RESULTING FROM THE IMPLEMENTATION OF THE BASIC INCOME PROGRAM

The *Individual and Family Assistance Act*¹ provides for various financial assistance programs aimed at the most disadvantaged individuals in our society. These programs include the Social Assistance Program, the Social Solidarity Program and the Aim for Employment Program. These programs fall under the responsibility of the Ministère de l'Emploi et de la Solidarité sociale (MESS).

In order to improve the financial assistance granted to some of these people, the government has instituted an Act mainly to introduce a basic income for persons with a severely limited capacity for employment.² Several provisions of this law are scheduled to come into force on January 1, 2023, particularly those relating to the implementation of the new Basic Income Program (BIP),³ which will also fall under the responsibility of the MESS.

An individual will be eligible for the BIP when, for 66 months out of the last 72 months, the individual has had a severely limited capacity for employment and has been a recipient of the Social Solidarity Program or similar government measures.⁴ Benefits received under this new program will be taxable, in the same way as those paid under the Social Solidarity Program.

Because of the coming into force of the BIP,⁵ consequential amendments will be made to the tax legislation so that various rules currently applicable to recipients of the Social Solidarity Program will also apply to recipients of the BIP. These legislative amendments concern, among other things, certain refundable tax credits and the premium payable for the Public Prescription Drug Insurance Plan.

□ Refundable tax credit granting an allowance to families

The refundable tax credit granting an allowance to families (RTCAF) plays an important role in Québec's family policy by providing financial assistance to families to help them meet the needs of their children under the age of 18.

This refundable tax credit consists of a family allowance payment, a supplement for handicapped children, a supplement for handicapped children requiring exceptional care and a supplement for the purchase of school supplies.

Retraite Québec is responsible for paying the RTCAF to Québec families and makes the payments on a quarterly basis. Each payment, made in January, April, July and October, includes the amounts determined for the months included in that quarter. However, Retraite Québec makes monthly payments of the RTCAF when requested by an individual. In this case, each payment includes only the amount determined for that month.

¹ CQLR, chapter A-13.1.1.

² S.Q., 2018, c. 11.

³ Order-in-Council 1139-2022 published on June 15, 2022, in the *Gazette officielle du Québec*.

⁴ For the purpose of calculating the eligibility period for the BIP, the months during which a person has received a disability pension will be considered. On this subject, see section 45 of Order-in-Council 1140-2022 published on June 15, 2022, in the *Gazette officielle du Québec*, which introduces section 177.46 in the *Individual and Family Assistance Regulation* (CQLR, chapter A-13.1.1, r. 1).

⁵ Introduced in the new Chapter VI of Title II of the *Individual and Family Assistance Act*.

Moreover, Retraite Québec may apply any amount to be paid to an individual under the RTCAF for a given month to the payment of any amount owed by the individual, either under the RTCAF, the *Act respecting family benefits*⁶ or the *Act respecting family assistance allowances*.⁷ However, the allocation must take into account the fact that an individual receives a benefit under the Social Assistance Program, the Social Solidarity Program or the Aim for Employment Program.⁸

The tax legislation will therefore be amended to provide that, as of January 1, 2023, the allocation of an amount by Retraite Québec must also take into account the fact that an individual receives a benefit under the BIP.

❑ Refundable solidarity tax credit

The solidarity tax credit is a refundable tax credit for low- and middle-income households. It is determined for a payment period that begins on July 1 of a calendar year and ends on June 30 of the following calendar year.

The base year for a payment period is the taxation year that ended on December 31 of the calendar year that precedes the beginning of this payment period.

In general, the solidarity tax credit is granted, for a payment period, to any individual whose family income, for the base year relating to that period, is below a certain threshold.

The solidarity tax credit is made up of the following three components:

- the QST component, which aims to mitigate the costs related to the QST;
- the housing component, which allows for the consideration of costs related to the occupation of an eligible dwelling;
- the component for individuals living in northern villages, which aims to compensate for the fact that the cost of living in one of Québec's 14 northern villages is higher than elsewhere in Québec.

After the maximum amount applicable in respect of an individual under these various components has been determined, it is reducible, as the case may be, based on the individual's family income for the base year relating to the payment period (that is, the individual's net income and that of the individual's cohabiting spouse,⁹ as the case may be).

However, to better take into account the needs of recipients of the Social Assistance Program, the Social Solidarity Program and the Aim for Employment Program, an individual's family income is deemed to be equal to zero when the individual or the individual's cohabiting spouse is a recipient of any of these programs for the month of December of the base year.¹⁰

⁶ CQLR, chapter P-19.1.

⁷ *Ibid.*, chapter A-17.

⁸ *Taxation Act*, s. 1029.8.61.36.

⁹ In general, "cohabiting spouse" means the person who, at the end of the base year, was the spouse of the individual and was not living separate and apart from the individual.

¹⁰ *Taxation Act*, s. 1029.8.116.15.

In addition, since the payment period beginning after June 30, 2019,¹¹ the tax legislation provides that Revenu Québec may pay the amounts of the QST component of the solidarity tax credit to an individual who is a recipient of the Social Assistance Program, the Social Solidarity Program or the Aim for Employment Program, for the month of December of the base year, and when the individual has not filed an income tax return for that base year as of September 1 of the year that follows the base year. The individual is then deemed to have validly made an application for such purpose in accordance with the relevant provision.¹²

Moreover, where an individual is in debt under a tax law or in debt to the state under a law other than a tax law, and the individual is, for a particular payment month, a recipient under the Social Assistance Program, the Social Solidarity Program or the Aim for Employment Program, the tax legislation provides that not more than 50% of the amount of the solidarity tax credit paid to the individual for a particular month may be allocated to the payment of the individual's debt to the state, provided the individual's status as a recipient was brought to the attention of Revenu Québec at least 21 days before the stipulated date for payment of the amount.¹³

Lastly, the tax legislation¹⁴ provides that any contestation in respect of the accuracy of information used for the application of the solidarity tax credit and communicated to the Minister of Revenue by the Minister responsible for Social Solidarity and Community Action in relation to an individual's eligibility for the Social Assistance Program, the Social Solidarity Program or the Aim for Employment Program must be made in accordance with Chapter III of Title III of the *Individual and Family Assistance Act*.

To take into account the implementation of the BIP, the tax legislation will be amended to provide:

- that where an individual, or the individual's cohabiting spouse, will be a recipient of the BIP for the month of December of a base year after the year 2022:
 - the individual's family income for the base year will be deemed equal to zero,
 - the individual will be deemed to have made a claim for the QST component of the solidarity tax credit for the payment period that follows the base year where the individual has not filed an income tax return for that base year as of September 1 of the year following that base year;
- that not more than 50% of the solidarity tax credit amount to be paid in respect of a given month after the month of December 2022 for an individual who will be a recipient of the BIP for that month may be applied to the payment of a debt owed by that individual to the state,¹⁵ provided the individual's status as a recipient was brought to the attention of Revenu Québec at least 21 days before the stipulated date for payment of the amount;

¹¹ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2019-10*, November 7, 2019, pp. 6-8.

¹² *Taxation Act*, s. 1029.8.116.18.1.

¹³ *Ibid.*, s. 1029.8.116.34.

¹⁴ *Ibid.*, s. 1029.8.116.35.

¹⁵ A debt under a tax law or other law referred to in section 1029.8.116.34 of the *Taxation Act*.

- that any contestation, as of January 1, 2023, in respect of the accuracy of information used for the application of the solidarity tax credit in relation to an individual's eligibility for the BIP, which information is communicated to the Minister of Revenue by the Minister responsible for Social Solidarity and Community Action, must be made in accordance with Chapter III of Title III of the *Individual and Family Assistance Act*.

□ Refundable tax credits granting a work premium

To support low- and middle-income households, support and value work effort and encourage people to give up social assistance programs and enter the labour market, the Québec tax system grants these households refundable tax credits to increase incentives to work.

These tax incentives consist of a general work premium, which is targeted to households whose capacity for employment is not severely limited, an adapted work premium, which is targeted to households whose capacity for employment is severely limited, and a supplement to the work premium, which supports long-term recipients leaving social assistance programs. Work premiums are reducible based on family income and are determined by taking into account eligible work income and household composition.

Since the BIP is targeted to persons whose capacity for employment is severely limited, only certain provisions relating to the adapted work premium will be subject to consequential changes due to the implementation of the BIP.¹⁶

The tax legislation¹⁷ sets out the criteria for determining whether an individual is eligible for the refundable tax credit granting an adapted work premium. One of these criteria is that the individual be a recipient of the Social Solidarity Program or that the individual has been a recipient of the program in one of the preceding five years, because of the individual's physical or mental condition, but not as a recipient of a special allowance paid under section 48 of the *Individual and Family Assistance Regulation*.

Moreover, an individual may benefit, under certain conditions, from the advance payment of the work premium, either the general work premium or the adapted work premium.¹⁸ This advance payment corresponds to 50% of the estimated value of the refundable tax credit payable if the individual is part of a family with children, and 75% of this value in other cases. In certain situations, the advance payment may be increased,¹⁹ up to 90% of the estimated value of the tax credit payable, when the individual claiming it is a recipient of the Social Assistance program, the Social Solidarity Program or the Aim for Employment Program.

¹⁶ The provisions of the *Taxation Act* relating to the supplement to the work premium will not be amended consequentially to reflect the implementation of the BIP since section 48 of the *Individual and Family Assistance Regulation* has not been amended to cover this program. See subsection c of the first paragraph of section 1029.8.116.5.0.2, of the *Taxation Act*.

¹⁷ *Taxation Act*, s. 1029.8.116.5.0.1.

¹⁸ *Ibid.*, s. 1029.8.116.9.

¹⁹ *Ibid.*, s. 1029.8.116.9.0.1.

To take into account the implementation of the BIP, the tax legislation will be amended to provide that, as of January 1, 2023:

- that an individual who is a recipient of the BIP in a given year or who was a recipient in one of the five preceding years, because of the individual's physical or mental condition, be eligible for the refundable tax credit granting an adapted work premium;
- that recipients of the BIP be able, like recipients of the Social Solidarity Program, to benefit from the increase in the advance payment of the adapted work premium.

□ Deduction for the reimbursement of amounts paid to the Minister responsible for Social Solidarity and Community Action by the debtor of a support payment

In general, the tax legislation provides that an amount paid as support, other than child support, must be included in the income of the individual who receives it and may be deducted from the income of the person who pays it.

Since the budget of May 9, 1996, where a support debtor defaults on support payments and his or her spouse or former spouse obtains last resort financial assistance (either from the Social Assistance Program or the Social Solidarity Program), support amounts repaid to the Minister responsible for Social Solidarity and Community Action by the support debtor as arrears or in respect of current support payments receive the same tax treatment as if they had been paid directly to his or her spouse or former spouse.²⁰

The tax legislation will be amended to recognize that, as of January 1, 2023, such a repayment may also occur where a support payee becomes eligible for BIP benefits as a result of the support debtor's default and the Minister responsible for Social Solidarity and Community Action then becomes subrogated *pleno jure* to the support payee's rights in respect of all support payments that have fallen due and those that fall due during the period for which a BIP benefit is granted.²¹

²⁰ *Ibid.*, s. 336.0.8.

²¹ Section 15 of the *Act mainly to introduce a basic income for persons with a severely limited capacity for employment* provides that the first paragraph of section 92 of the *Individual and Family Assistance Act* is amended to add a benefit from the BIP.

❑ Refundable tax credit for the retention of persons with a severely limited capacity for employment

Introduced in the March 10, 2020 budget,²² the refundable tax credit for the retention of persons with a severely limited capacity for employment²³ is granted to a qualified corporation that employs an eligible employee, that is, an individual with a severe and prolonged impairment in mental or physical functions within the meaning of that expression for the purposes of the tax credit for severe and prolonged impairment in mental or physical functions,²⁴ or an individual in respect of whom the Minister responsible for Social Solidarity and Community Action has issued a certificate certifying that the person received a social solidarity allowance during the year or one of the preceding five years under the Social Solidarity Program established in the *Individual and Family Assistance Act*.

The refundable tax credit of a qualified corporation in respect of an eligible employee, for a taxation year, is equal to the amount of employer contributions paid by the corporation in respect of such an employee, for the calendar year ended in the taxation year, namely contributions to the Health Services Fund, the Québec Pension Plan, the Québec Parental Insurance Plan and the Commission des normes, de l'équité, de la santé et de la sécurité au travail.

To take into account the implementation of the BIP, the tax legislation will be amended to provide that, for the purposes of the refundable tax credit for the retention of persons with a severely limited capacity for employment, an employee of a qualified corporation at any time in the calendar year ended in a taxation year, other than an excluded employee²⁵ at any time in that calendar year, in respect of whom the Minister responsible for Social Solidarity and Community Action has issued a certificate certifying that the employee received during the calendar year or one of the preceding five calendar years an allowance under the BIP established by the *Individual and Family Assistance Act*, will also be an eligible employee of the qualified corporation for the taxation year.

This amendment will apply to a taxation year of a corporation that ends after December 30, 2023, in respect of an amount paid by the corporation as employer contributions in respect of a calendar year after 2022.

❑ Premium payable to the Public Prescription Drug Insurance Plan

The basic prescription drug insurance plan established by the Québec government guarantees all Quebecers fair access to the medications required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec, as the administrator of the Public Prescription Drug Insurance Plan, or by insurers transacting group insurance or by administrators or private-sector employee benefit plans.

²² MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2020-2021 – Additional Information*, March 10, 2020, pp. A.37-A.42.

²³ *Taxation Act*, s. 1029.8.36.59.59.

²⁴ The individuals concerned are those for whom the conditions set out in subparagraphs a to b.1 of the first paragraph of section 752.0.14 of the *Taxation Act* are met.

²⁵ The term "excluded employee" is defined in section 1029.8.36.59.58 of the *Taxation Act*.

As a general rule, the Régie de l'assurance maladie du Québec provides coverage for individuals who are not required to become members of a group insurance contract, an individual insurance contract concluded on the basis of one or more of the distinctive characteristics of group insurance, or an employee benefit plan applicable to a determined group of persons, as well as coverage for those persons whom no one is required to cover. Adults who are not covered for an entire year by such a contract or plan are generally required to pay a premium for that year to fund the Public Prescription Drug Insurance Plan.

An adult who benefits from the Public Prescription Drug Insurance Plan in a given year must pay, for the year, a premium calculated on the basis of each month during which the adult benefits from the plan, except, in particular, if the adult is eligible for a social assistance program provided for in the *Individual and Family Assistance Act* and holds a valid claim slip issued by the MESS. In addition, the *Act respecting the Régie de l'assurance maladie du Québec*²⁶ will therefore be amended so that, as of the month of January, 2023, the premium payable by an adult for a year to the Public Prescription Drug Insurance Plan will be calculated without taking into account the months for which the adult will have received benefits under the BIP and will hold a valid claim slip issued by the MESS.

❑ Clarification regarding the refundable tax credit for caregivers

The refundable tax credit for caregivers was introduced in the 2020-2021 budget and has two components.²⁷

The first component is intended for caregivers providing care to a person aged 18 or over who has a severe and prolonged impairment in mental or physical functions and needs assistance in carrying out a basic activity of daily living. This component consists of a universal basic tax assistance of \$1 299 for 2022, provided that the caregiver lives with the eligible carereceiver, to which can be added a reducible assistance of the same amount, without the requirement that the caregiver and the eligible carereceiver live together.

The second component is intended for caregivers providing care to an eligible senior relative aged 70 or over who does not have a severe and prolonged impairment in mental or physical functions. This component consists of a non-reducible universal assistance and requires that the caregiver live with the eligible senior relative. The amount of assistance is also \$1 299 for 2022.

The additional assistance (with or without the requirement that the caregiver live with the eligible carereceiver) added under the first component is reducible at a rate of 16% for each dollar of income of the eligible carereceiver that exceeds a certain threshold.

Thereafter, the assistance calculated under the first component of this tax credit must be reduced when the caregiver or his or her spouse has received, in accordance with the *Individual and Family Assistance Regulation*,²⁸ an additional adjustment amount with respect to a dependent child aged 18 or over who is disabled and who attends a secondary school in general education under the Social Assistance Program, the Social Solidarity Program or the Aim for Employment Program.²⁹

²⁶ CQLR, chapter R-5, s. 37.7, subs. e.

²⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2020-2021 – Additional Information*, March 10, 2020, pp. A.59-A.69.

²⁸ CQLR, chapter A-13.1.1, r. 1, s. 75, 2nd par.

²⁹ *Taxation Act*, s. 1029.8.61.96.17.

Since the amendments made to the *Individual and Family Assistance Regulation* regarding adjustments to the basic benefit of the BIP do not provide for any specific amount with respect to a dependent child aged 18 or over who is disabled and who attends a secondary school in general education,³⁰ it should be noted that the refundable tax credit for caregivers will not be amended.

2. CHANGES TO EXCLUDED CHILD CARE EXPENSES FOR THE PURPOSE OF THE REFUNDABLE TAX CREDIT FOR CHILD CARE EXPENSES

In general, families who pay child care expenses can benefit from the refundable tax credit for child care expenses, which allows them to obtain compensation for a portion of these expenses.

Accordingly, expenses incurred for the purpose of providing a child³¹ baby sitting services, day nursery services or services provided at a boarding school or a camp may qualify for the refundable tax credit for child care expenses insofar as these expenses were incurred to enable the individual or his or her eligible spouse to perform the duties of an office or employment, carry on a business, carry on research, pursue studies or actively seek employment.³²

The amount of this refundable tax credit is calculated by applying to an individual's qualified child care expenses, for a taxation year, the rate corresponding to his or her family income for the year.

The rate table applicable for the purposes of calculating the refundable tax credit for child care expenses has several family income brackets (subject to automatic annual indexing), so that the rate of this refundable tax credit applicable to qualified child care expenses³³ varies between 78% and 67% since the 2021 taxation year.³⁴

However, certain prescribed expenses are excluded from the application of the refundable tax credit for child care expenses, in particular the contribution required regarding a school daycare service when an allowance is already paid by the government to the school organization. This exclusion is intended to ensure that the government does not provide duplicate assistance for the same service, that is, through a tax credit and a budgetary program.

³⁰ On this subject, see section 177.74 in the *Individual and Family Assistance Regulation* introduced by section 45 of Order-in-Council 1140-2022 published on June 15, 2022 in the *Gazette officielle du Québec*.

³¹ The child must be the child of the individual or of the individual's eligible spouse and must, at any time in the year, be under 16 years of age or be dependent on the individual or the individual's eligible spouse by reason of mental or physical infirmity.

³² Subject to temporary changes, applicable for the 2020 and 2021 taxation years, announced in February 2021 to harmonize the Québec tax legislation with federal tax legislation. See: MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2021-1*, February 26, 2021.

³³ Eligible child care expenses are subject to an annual limit depending on the age and status of the child.

³⁴ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2021-8*, November 25, 2021, pp. 9-12.

Specifically, the *Regulation respecting the Taxation Act* provides that child care expenses are prescribed expenses, and therefore do not qualify for the refundable tax credit for child care expenses, if the expenses are paid, among other things, as a contribution provided for by the budgetary rules established in accordance with section 472 of the *Education Act*³⁵ where the contribution is, according to the rules, related to the basic services provided for a school day for a child who regularly attends child care at school.³⁶

The government recently amended the *Regulation respecting childcare services provided at school*³⁷ to set the maximum amount that can be charged as a financial contribution for child care services in a public school. In addition, the notion of regular attendance has been replaced by a number of periods for which a student is registered.

More specifically, the *Regulation respecting childcare services provided at school* now provides that the financial contribution required for children registered for child care services for more than 1 period among the usual before-class, lunch and after-class periods during a day of the school year devoted to educational services may not exceed the amount of \$8.95.³⁸

In order to ensure that these school child care expenses remain prescribed for the purposes of the refundable tax credit for child care expenses, the *Regulation respecting the Taxation Act* will be amended so that the prescribed expenses in relation to the *Education Act* are those paid by an individual in respect of the financial contribution provided for in the second paragraph of section 17.1 of the *Regulation respecting childcare services provided at school*.³⁹

Moreover, given that the maximum financial contribution previously provided for by the budgetary rules established in accordance with section 472 of the *Education Act* is now provided for by the *Regulation respecting childcare services provided at school*, a consequential amendment will also be made to the *Regulation respecting the Taxation Act* with respect to the prescribed expenses for basic services provided for a child registered in child care at school for a pedagogical day.⁴⁰ Accordingly, these expenses will remain prescribed up to the maximum financial contribution that, according to the second paragraph of section 17.1 of the *Regulation respecting childcare services provided at school*, would have been payable if that day had been a school day.

□ Application date

These amendments apply retroactively to the effective date of the *Regulation amending the Regulation respecting childcare services provided at school*.⁴¹

³⁵ CQLR, chapter I-13.3.

³⁶ *Regulation respecting the Taxation Act*, s. 1029.8.67R1.

³⁷ CQLR, chapter I-13.3, r. 11. *Regulation amending the Regulation respecting childcare services provided at school* was the subject of Order-in-Council 1053-2022 of June 15, 2022 and was published in the *Gazette officielle du Québec* on June 22, 2022.

³⁸ *Regulation respecting childcare services provided at school*, s. 17.1, 2nd par.

³⁹ For greater clarity, only the portion of section 1029.8.67R1 of the *Regulation respecting the Taxation Act* relating to prescribed expenses in respect of the *Education Act* is amended.

⁴⁰ *Regulation respecting childcare services provided at school*, s. 17.2, 1st par.

⁴¹ *Regulation amending the Regulation respecting childcare services provided at school*, s. 18.

3. RENEWAL OF THE REFUNDABLE TAX CREDITS AIMED AT ENCOURAGING THE CREATION OF NEW FINANCIAL SERVICES CORPORATIONS

As part of the March 20, 2012 budget speech, two refundable tax credits were introduced to encourage the creation of new financial services corporations.⁴²

Thus, on the one hand, a qualified corporation may claim the tax credit for the hiring of employees by new financial services corporations. This tax credit represents 24% of the qualified wages that the corporation pays to an eligible employee during a taxation year included in a five-year period of eligibility for the tax credit. However, the tax credit is limited to \$24 000 per eligible employee per year.

On the other hand, a qualified corporation may claim the refundable tax credit relating to new financial services corporations, which corresponds to 32% of the qualified expenditure it incurred during a taxation year included in the five-year period. However, the tax credit is limited to \$120 000 per year.

To qualify for either of these tax credits, a corporation must, notably, obtain from the Minister of Finance a qualification certificate in respect of the activities carried on or to be carried on. The application for such a certificate must be filed with the Minister before the end of the corporation's second taxation year, but no later than December 31, 2022.

In order to encourage the emergence of new financial services corporations and to maintain the dynamism of this industry in Québec, the deadline for submitting an application for a qualification certificate will be extended by five years.

Consequently, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that an application for a qualification certificate must be filed by a corporation with the Minister of Finance before the end of the second taxation year of the corporation, but no later than December 31, 2027.

4. CLARIFICATION REGARDING THE TAX TREATMENT OF THE FEDERAL CRITICAL MINERAL EXPLORATION TAX CREDIT

In summary, the flow-through share regime allows a taxpayer who acquires such shares to deduct in the calculation of his or her income the amount of certain mining expenses renounced to the taxpayer by the issuing corporation.

The Mineral Exploration Tax Credit (METC) is a non-refundable tax credit under the federal tax system. The METC available to an individual for a taxation year is equal to 15% of the individual's flow-through mining expenditures for the year, which are, in summary, the Canadian surface exploration expenses incurred by a corporation and renounced to the individual by the corporation under the flow-through share regime.

⁴² MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2012-2013 – Additional Information on the Fiscal Measures of the Budget*, March 20, 2012, pp. 42-48.

On April 7, 2022, at the time of the federal budget, the Department of Finance Canada announced the introduction of the critical mineral exploration tax credit (CMETC).⁴³

The CMETC available to an individual for a taxation year is equal to 30% of the individual's flow-through critical mineral mining expenditures for the year, which are, in summary, Canadian surface exploration expenses primarily targeting critical minerals incurred by a corporation and renounced to the individual by the corporation under the flow-through share regime. Thus, following the introduction of the CMETC, an individual holder of flow-through shares may, under certain conditions, claim either the METC or the CMETC, depending on, among other things, the mineral covered by the exploration expenditure.

The METC and the CMETC are both included in the federal investment tax credit. In general, Québec tax legislation and regulations provide that an amount received by a taxpayer under the federal investment tax credit must, as the case may be, be included in the calculation of the taxpayer's business or property income, deducted in the calculation of an expense incurred by the taxpayer or deducted from the cost of a property acquired by the taxpayer. However, the METC received by an individual does not have to be included in the calculation of the individual's income, for the purposes of the Québec tax system, and does not reduce the individual's cumulative Canadian exploration expenses account. Similarly, the METC that an individual has received, is entitled to receive or becomes entitled to receive does not reduce the individual's exploration base relating to certain Québec exploration expenses or the individual's exploration base relating to certain Québec surface mining or oil and gas exploration expenses, for the purposes of the application of the additional deductions in respect of certain Québec mining exploration expenses.

In *Information Bulletin 2022-4* of June 9, 2022,⁴⁴ the Ministère des Finances du Québec announced that the Québec tax legislation would not be harmonized with the proposed federal measure introducing the CMETC. However, no clarification has been provided with respect to the treatment of the CMETC in the Québec tax system, which it is appropriate to do at this time.

It is therefore appropriate to confirm that the Québec tax legislation and regulations will be amended so that the treatment of the METC available to an individual for the purposes of the Québec tax system will also be available to the CMETC.

Therefore, the amount received by an individual under the CMETC will not be included in the calculation of the individual's income and will not reduce the individual's cumulative Canadian exploration expenses account. Similarly, the amount of the CMETC that an individual receives, is entitled to receive or becomes entitled to receive will not reduce the individual's exploration base relating to certain Québec exploration expenses, for the purposes of the additional deduction in respect of certain exploration expenses incurred in Québec, nor will it reduce the individual's exploration base relating to certain Québec surface mining or oil and gas exploration expenses, for the purposes of the additional deduction in respect of certain surface mining exploration expenses or oil and gas exploration expenses incurred in Québec.

⁴³ DEPARTMENT OF FINANCE CANADA, *Budget 2022 – Tax Measures: Supplementary information*, [Online], April 7, 2022, pp. 26-27, [<https://www.budget.canada.ca/2022/pdf/tm-mf-2022-en.pdf>].

⁴⁴ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2022-4*, June 9, 2022, p. 7.

❑ Application date

These amendments will apply in respect of an amount that an individual will have received, will be entitled to receive or will become entitled to receive under the CMETC after April 7, 2022.

5. HARMONIZATION WITH A FISCAL MEASURE INTRODUCED BY BILL C-31 OF THE GOVERNMENT OF CANADA

On September 20, 2022, the Government of Canada introduced in the House of Commons Bill C-31, entitled “An Act respecting cost of living relief measures related to dental care and rental housing”. This bill received royal assent on November 17, 2022.⁴⁵

Part 1 of Bill C-31 enacts the Dental Benefit Act. In summary, this legislation establishes a Canada Dental Benefit that provides direct financial support for parents for dental care services required by their eligible children under 12 years of age.

Part 3 of Bill C-31 makes changes to the federal tax legislation to ensure that any amount received under the dental benefit is excluded from income for the purposes of the federal tax system.

In order to ensure that Québec parents who receive this benefit are not disadvantaged in comparison with parents in other Canadian provinces, the Québec tax legislation will be harmonized with the federal tax legislation to exclude the dental benefit from the calculation of income for the purposes of the Québec tax system.

The changes to the Québec tax system will apply on the same dates as the changes to the federal tax system with which they are harmonized.

6. HARMONIZATION WITH THE LEGISLATIVE AND REGULATORY PROPOSALS RELATING TO THE GOODS AND SERVICES TAX AND THE HARMONIZED SALES TAX ANNOUNCES BY THE DEPARTMENT OF FINANCE CANADA ON AUGUST 9, 2022

On August 9, 2022, the Department of Finance Canada made public in a press release⁴⁶ legislative and regulatory proposals relating to the *Excise Tax Act*, the *Air Travellers Security Charge Act*, the *Excise Act, 2001*, the *Greenhouse Gas Pollution Pricing Act*, the *Underused Housing Tax Act* and related legislation (hereinafter referred to as the “federal proposals”) to increase the certainty and integrity of the federal tax system.

⁴⁵ S.C. 2022, c.14.

⁴⁶ DEPARTMENT OF FINANCE CANADA, *Legislative Proposals Relating to the Income Tax Act and Other Legislation and Explanatory Notes*, [Online], August 9, 2022, [<https://fin.canada.ca/drleg-apl/2022/ita-lir-0822-eng.html>].

In accordance with the general principle of harmonizing the Québec sales tax (QST) system with the goods and services tax and the harmonized sales tax (GST/HST) system, changes will be made to the QST system to incorporate, with adaptations based on its general principles and taking into account its particularities and considering the provincial context underlying the QST, the following federal proposals:⁴⁷

- definitions (FLRP 2);
- exclusion of interest and dividend (FLRP 3);
- Lloyd's associations (FLRP 4);
- election for exempt supplies (FLRP 5);
- election for nil consideration (FLRP 6);
- later addition to net tax of employer (FLRP 7);
- pension entity – assessment of supplier (FLRP 8);
- permitted deduction (FLRP 9);
- imported supplies of financial institutions (FLRP 10);
- effect of tax adjustment note (FLRP 11 and 12);
- rebate to pension plans (FLRP 13);
- reporting institution (FLRP 14);
- penalty – electronic payments (FLRP 16);
- transportation services (FLRP 21);
- Joint Venture (GST/HST) Regulations (FLRP 50 and 51);
- Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations (FLRP 52 to 71).

Moreover, with respect to FLRP 15, 17 to 19 and 81, it should be noted that *Information Bulletin 2022-3* dated April 29, 2022, already announced that the QST system would be harmonized with the proposed changes to the GST/HST system relating to electronic payments, avoidance of tax debts as well as changes to the Electronic Filing and Provision of Information (GST/HST) Regulations, which were made public by the Department of Finance Canada in a press release on February 4, 2022.

In addition, with respect to the FLRP 20, *Information Bulletin 2022-3* dated April 29, 2022, specifies that this proposal will not be retained since the Québec legislation is satisfactory in this regard.

⁴⁷ References in parentheses are to federal legislative and regulatory proposals (FLRP) announced by the Department of Finance Canada on August 9, 2022.

□ Application date

The amendments to the QST system will only be passed following assent to any federal statute or adoption of any federal regulation giving effect to the federal proposals, taking into account any technical amendments that may be made prior to the assent or adoption, as the case may be. Additionally, these amendments will be applicable starting on the same dates as those retained for the application of the federal proposals with which they are harmonized, except for the federal proposals relating to a permitted deduction (FLRP 9), which will apply to specified year of a person that ends after December 31, 2012, and the Joint Venture (GST/HST) regulations (FLRP 50), which will apply as of July 1, 1992 or, if the date of application of that federal measure is later than July 1, 1992, as of that date.