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## HARMONIZATION WITH VARIOUS TAX MEASURES ANNOUNCED BY THE FEDERAL GOVERNMENT

This information bulletin states the position of the Ministère des Finances on the tax measures announced in the federal budget tabled on March 22, 2017.

In addition, it clarifies the tax treatment that will apply to the new caregiver recognition benefit for caregivers of veterans which the bill to implement certain provisions of the federal budget proposes to introduce.

It also sets out the position of the Ministère des Finances on the tax measures announced by the Minister of Finance of Canada on October 3, 2016, in order to increase the fairness of the tax system by closing tax loopholes relating to the income tax exemption respecting capital gains realized on the disposition of a principal residence.

Lastly, it indicates whether each of the legislative or regulatory proposals relating to technical amendments to the *Income Tax Act* and related legislation, presented by the Department of Finance Canada on September 16, 2016, will be retained for incorporation into the Québec tax legislation and regulations.

For information concerning 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.

The English and French versions of this bulletin are available on the Ministère des Finances website at [www.finances.gouv.qc.ca](http://www.finances.gouv.qc.ca).

## HARMONIZATION WITH VARIOUS TAX MEASURES ANNOUNCED BY THE FEDERAL GOVERNMENT

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## 1. HARMONIZATION WITH VARIOUS TAX MEASURES ANNOUNCED IN THE FEDERAL BUDGET OF MARCH 22, 2017

On March 22, 2017, the Minister of Finance of Canada presented the federal government's budget for 2017. At that time, he tabled, in the House of Commons, supplementary information describing in detail each of the tax measures proposed in the budget, along with notices of ways and means motions to amend federal tax legislation and regulations accordingly.<sup>1</sup>

### □ Income tax measures

The Québec tax legislation and regulations will be amended to incorporate certain income tax-related measures proposed in federal budget 2017. However, the changes to the Québec tax system will be adopted only following assent to any federal statute or adoption of any federal regulation implementing the measures retained, taking into account technical amendments that may be made prior to assent or adoption, as the case may be. More specifically, these changes will apply on the same dates as those retained for the purposes of the federal measures with which they harmonize.

### ■ Budget resolutions retained

The Québec tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the budget resolutions concerning:

1. the addition of nurse practitioners to the list of medical practitioners authorized to issue certifications for the purposes of the tax credit for severe and prolonged impairment in physical or mental functions (BR 1 and BR 2);<sup>2</sup>
2. eligibility for the medical expense tax credit, in the case of expenses that would have been eligible for the tax credit had they been paid in respect of a person unable to conceive a child for medical reasons (BR 3);
3. electronic distribution, to employees, of the information slip entitled Statement of Remuneration Paid (T4)<sup>3</sup> (BR 9 and BR 10);
4. eligibility for the tuition tax credit, in the case of tuition fees paid to a postsecondary institution located in Canada for occupational skills courses that are not at the postsecondary school level (BR 11);

<sup>1</sup> DEPARTMENT OF FINANCE CANADA, *Tax Measures: Supplementary Information*, March 22, 2017. [Budget 2017 companion paper].

<sup>2</sup> The references in parentheses correspond to the number of the budget resolutions (BRs) of the *Notice of Ways and Means Motion to Amend the Income Tax Act and Other Related Legislation* tabled in the House of Commons on March 22, 2017.

<sup>3</sup> The corresponding Québec information return is the RL-1 slip, *Relevé 1 – Revenus d'emploi et revenus divers*.

5. preservation of the integrity of the ecological gifts program through the approval or exclusion of certain donees, and recognition in Québec of certain personal servitudes, it being understood that, with respect to the approval of donees that are municipalities or municipal or public bodies performing a function of government, approval must be given by the Minister of Sustainable Development, the Environment and the Fight Against Climate Change, or by a person designated by the Minister, and that approval will also be required for donees that are registered charities (BR 14 to BR 16);
6. the elimination of the deduction in respect of eligible home relocation loans (BR 21 to BR 23 and BR 25);
7. the income tax consequences of the holding of certain non-qualified or prohibited investments, or of the granting of certain advantages by registered education savings plans and registered disability savings plans (BR 27 to BR 29, BR 38 and BR 39);
8. the rules applicable to investment fund mergers (BR 41 to BR 45);
9. clean energy generation equipment (BR 46 to BR 48);
10. expenditures relating to oil and gas discovery wells (BR 49);
11. the reclassification of expenses renounced to flow-through share investors (BR 50);
12. clarification of the concept “factual control” (BR 51);
13. the rules governing the timing of the recognition of gains and losses on derivatives (BR 52 to BR 59);
14. the elimination of the additional deduction for gifts of medicine (BR 60);
15. the elimination of a tax exemption based upon gross premium income earned by insurers of farming and fishing property (BR 66 to BR 68);
16. the elimination of the possibility for certain professionals to use billed-basis accounting (BR 69 and BR 70);
17. the extension of the base erosion rules to foreign branches of life insurers (BR 71 and BR 72).

■ **Budget resolutions not retained**

Certain budget resolutions were not retained, because they are out of step with the characteristics of the Québec tax system, or because the Québec tax system is satisfactory or has no analogous provisions. These budget resolutions concern:

- the restructuring of the non-refundable caregiver tax credits (BR 4 to BR 7);
- the extension of the mineral exploration tax credit for flow-through share investors (BR 8);

- the amendments to the definition of “qualifying educational program” and “qualifying student” in subsection 118.6(1) of the *Income Tax Act* (BR 12);
- the delay of the repeal of the National Child Benefit supplement reference in the Canada Child Benefit rules in the *Income Tax Act* until July 1, 2018 (BR 13);
- the amendments to the special tax payable by a donee that changes the use of an ecogift received by the donee or that disposes of such a gift (BR 17);
- the elimination of the public transit tax credit (BR 18 and BR 19);
- the elimination of the tax exemption with respect to allowances paid to certain elected officials for expenses inherent in the carrying out of duties (BR 20);
- the elimination of a reference to the deduction in respect of eligible home relocation loans, for the purposes of the overseas employment tax credit (BR 24);
- the extension, to registered education savings plans and registered disability savings plans, of anti-avoidance rules similar to those applicable to tax-free savings accounts and registered plans with a view to saving for retirement (BR 26, BR 30 to BR 37 and BR 40);
- the repeal of provisions relating to the additional deduction for gifts of medicine (BR 61 and BR 62);
- the elimination of the investment tax credit for child care spaces (BR 63 to BR 65);
- the elimination of the tobacco manufacturers’ surtax (BR 73 and BR 74).

## **☐ Measures concerning the goods and services tax and the harmonized sales tax**

### **■ Budget resolutions retained**

In accordance with the principle of general harmonization of the Québec sales tax (QST) system with the goods and services tax and harmonized sales tax (GST/HST) system, changes will be made to the Québec tax system to incorporate, with adaptations on the basis of its general principles and taking into account the provincial context underlying the QST, the federal measure relating to taxi and ride-sharing services (BR 2).<sup>4</sup>

The changes to the QST system will be adopted only following assent to any federal statute implementing the measure, taking into account technical amendments that may be made prior to assent. They will apply on the same date as that retained for the purposes of the federal measure with which they harmonize.

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<sup>4</sup> The references in parentheses correspond to the number of the budget resolutions (BRs) of the *Notice of Ways and Means Motion to Amend the Excise Tax Act* tabled in the House of Commons on March 22, 2017.

Moreover, it should be recalled that it was previously announced, in *Information Bulletin 2017-5* of March 22, 2017, that the QST system will be harmonized with the change to the GST/HST system, proposed in the federal budget tabled March 22, 2017, pertaining to the maintenance of the zero-rated treatment of the opioid overdose treatment drug naloxone (BR 1).

#### ■ Budget resolutions not retained

The proposed changes concerning the elimination of the GST/HST rebate to non-residents for tour package accommodations (BR 3 to BR 8) were not retained for the purposes of the QST system, because it has no equivalent provisions.

## 2. HARMONIZATION WITH CERTAIN MEASURES IN BILL C-44, *BUDGET IMPLEMENTATION ACT, 2017, No. 1*

On April 11, 2017, Bill C-44, entitled *Budget Implementation Act, 2017, No. 1*, was presented. The bill seeks to implement certain budget resolutions contained in the notices of ways and means motions to amend related tax legislation tabled in the House of Commons on March 22, 2017, as well as other measures proposed in Economic Action Plan 2017, including the measure intended to confirm the tax-free nature of the caregiver recognition benefit, which is expected to replace the family caregiver relief benefit payable under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*.<sup>5</sup>

Given that, in general, the Québec tax system is harmonized with the federal tax system regarding the tax treatment applicable to various sources of income, the *Taxation Act* will be amended to incorporate, with adaptations based on its general principles, the federal measure intended to provide that an individual will not be required to include in his or her income amounts received on account of the caregiver recognition benefit that are paid to the individual under Part 3.1 of the *Veterans Well-being Act*.<sup>6</sup>

However, the amendments to Québec tax legislation will be adopted only after *Budget Implementation Act, 2017, No. 1* receives assent, taking into account technical amendments that may be made prior to assent. More specifically, these amendments will apply on the same dates as those retained for the purposes of the federal measure with which they harmonize.

Moreover, like the *Income Tax Act*, the *Taxation Act* will be amended to take into account the fact that the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* will be renamed the *Veterans Well-being Act*.

<sup>5</sup> DEPARTMENT OF FINANCE CANADA, *Budget 2017: Building a Strong Middle Class*, March 22, 2017, p. 177. [Budget Plan 2017].

<sup>6</sup> Subsections 6(1) and (2) of Bill C-44.

### **3. HARMONIZATION WITH VARIOUS MEASURES ANNOUNCED IN THE DEPARTMENT OF FINANCE CANADA NEWS RELEASE OF OCTOBER 3, 2016**

On October 3, 2016, the Minister of Finance of Canada announced three measures aimed at ensuring that Canada's housing market is stable and functions efficiently.<sup>7</sup>

One of these measures specifically concerned the tax rules relating to the tax exemption applicable to capital gains stemming from the disposition of a principal residence. Details of the changes to the tax system are contained in a notice of ways and means motion tabled in the House of Commons on that same day.

In general, the amendments flowing from the October 3, 2016 notice of ways and means motion concern the calculation of the capital gain on the disposition of a principal residence by an individual or a trust during a taxation year, the definition of "principal residence" and certain provisions applicable to trusts holding such property.

Given that the Québec tax system is substantially harmonized with the federal tax system regarding the tax treatment of capital gains, the Québec tax legislation will be amended to incorporate, with adaptations on the basis of its general principles, the federal proposals in the October 3, 2016 notice of ways and means motion.

However, the changes to the Québec tax system will be adopted only following assent to any federal statute implementing the legislative proposals presented, taking into account technical amendments that may be made prior to assent. More specifically, these changes will apply on the same dates as those retained for the purposes of the legislative proposals with which they harmonize.

### **4. HARMONIZATION WITH VARIOUS MEASURES ANNOUNCED IN THE DEPARTMENT OF FINANCE CANADA NEWS RELEASE OF SEPTEMBER 16, 2016**

On September 16, 2016, the Department of Finance Canada released draft proposals relating to technical amendments to the *Income Tax Act*, the *Income Tax Regulations* and related legislation.<sup>8</sup>

These proposals include amendments to:

- improve the accuracy and consistency of the income tax legislation and regulations;
- extend the types of reverse takeover transactions to which the corporate acquisition of control rules apply;

<sup>7</sup> DEPARTMENT OF FINANCE CANADA, *News Release 2016-117: Minister Morneau Announces Preventative Measures for a Healthy, Competitive and Stable Housing Market*, October 3, 2016.

<sup>8</sup> DEPARTMENT OF FINANCE CANADA, *News Release 2016-112: Department of Finance Canada Consults on Updates to the Tax System*, September 16, 2016.

- introduce new rules to ensure that the taxable income of federal credit unions will be allocated among provinces and territories using the same allocation formula as that applicable to the taxable income of banks;
- postpone, for three months, the application date of the measure in respect of sales of linked notes announced in federal budget 2016.

Given that the Québec tax system is substantially harmonized with the federal tax system, the Québec tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, several legislative and regulatory proposals made by the Department of Finance Canada.

However, the changes to the Québec tax system will be adopted only following assent to any federal statute or adoption of any federal regulation implementing the legislative and regulatory proposals retained, taking into account technical amendments that may be made prior to assent or adoption, as the case may be. More specifically, these changes will apply on the same dates as those retained for the purposes of the federal proposals with which they harmonize.

The following table indicates whether each federal legislative or regulatory proposal is retained for incorporation into the Québec tax legislation or regulations. The decision not to retain a legislative or regulatory proposal may be due to the proposal being out of step with the characteristics of the Québec tax system, or to the corresponding Québec provision being free of the inaccuracies the proposal is intended to correct. Such a decision may also simply be due to the absence of an equivalent tax measure under the Québec tax system.

TABLE

**Position of the Ministère des Finances du Québec on the proposals relating to amendments to the *Income Tax Act* and the *Income Tax Regulations* and to related legislation, presented on September 16, 2016**

Clause <sup>(1)</sup>	Subject	Proposal retained <sup>(2)</sup>	Proposal not retained <sup>(2)</sup>
1.	Amounts to be included in income from business or property (bond premiums and character conversion)	12(1)d.2 and z.7)	
2.	Foreign spin-offs & shareholder benefits	15(1.4)e)	
3.	Work space in home	18(12)b)	
4.	Deductions permitted in computing income from business or property (bond premiums and character conversion)	20(1)m.3) and xx)	
5.	Scientific research and experimental development	37(11) and (11.1)	37(8)a)
6.	Business investment loss and foreign exchange gains or losses	39(2.1) and (2.2)	39(1)c)
7.	Deemed capital gains	40(3)d) and e), and (3.1)b)	
8.	Partnership stop-loss rules	53(2)c)	
9.	Non-inclusion of certain amounts from pooled registered pension plans	56(1)z.3)	
10.	Restrictive covenants	56.4(7)b), c) and g)	

TABLE (cont.)

**Position of the Ministère des Finances du Québec on the proposals relating to amendments to the *Income Tax Act* and the *Income Tax Regulations* and to related legislation, presented on September 16, 2016**

Clause <sup>(1)</sup>	Subject	Proposal retained <sup>(2)</sup>	Proposal not retained <sup>(2)</sup>
11.	Pension income splitting between spouses – definition of “eligible pension income”	60.03(1)	
12.	Eligible moving expenses of students		62(2)
13.	Trust attribution	75(3)d <sup>(3)</sup>	
14.	Definitions – deferred recognition of debtor’s gain on settlement of debt		80.03(1)
15.	Foreign mergers – rollover	87(8.4) and (8.5)	
16.	Parked debt	88(1)e.2)	
17.	Definition of “capital dividend account”	89(1)	
18.	Dividend from non-resident corporation	90(6.1), (6.11), (7), (9)a) and (15)	
19.	Foreign accrual property income attributed to the stub period	91(1.1) to (1.5) and (4.5)	
20.	Non-resident trusts	94(3)b)	
21.	Foreign affiliate	95(1) and (2)a.1), f.13), f.15) and g.04)	
22.	Depreciable property – leasehold interests and options	98(7)	
23.	Transfer of an interest in partnership to tax exempt entities	100(1)a)	
24.	Trust attribution of a capital gains exemption	108(1)	
25.	Stock option deduction in situations of death	110(1)d)	110(1.1)c) and d)
26.	Definition of “exchange rate”	111(8)	
27.	Interest in a partnership – cost reduction	112(11) to (13)	
28.	Pension income tax credit	118(3)	
29.	Tax credit for donations – definition of “financial institution”	118.1(20)b)	
30.	Medical expense tax credit – marijuana	118.2(2)u) and v)	
31.	Tax payable by a qualified disability trust	122(1)c)	
32.	Refundable medical expense supplement – calculation formula		122.51(2)
33.	Definitions for the purpose of calculating the investment tax credits of a taxpayer		127(9)
34.	Dividends paid to bankrupt controlling corporation		129(1.1)b)

TABLE (cont.)

**Position of the Ministère des Finances du Québec on the proposals relating to amendments to the *Income Tax Act* and the *Income Tax Regulations* and to related legislation, presented on September 16, 2016**

Clause <sup>(1)</sup>	Subject	Proposal retained <sup>(2)</sup>	Proposal not retained <sup>(2)</sup>
35.	Registered retirement savings plans		146(1) and (21.2)
36.	Registered disability savings plan transfers	146.4(4)f)	
37.	Excess transfers to a specified pension plan or a pooled registered pension plan	147.3(13.1)a) <sup>(4)</sup>	
38.	Pooled registered pension plans	147.5(32.1)	147.5(12)
39.	Life insurance policies	148(2)e), (4.01), (9) and (11)	
40.	Where tax not payable – tax under Part I.3 of the <i>Income Tax Act</i>		181.1(3)b)
41.	Exempt corporations – tax under Part IV of the <i>Income Tax Act</i>		186.1a)
42.	Undeducted registered retirement savings plan premiums		204.2(1.2)
43.	Non-resident withholding tax – pension benefits		212(1)h)
44.	Foreign affiliate dumping		212.3(1)a) and b), and (7.1)
45.	Character conversion	248(1)	
46.	Subsection 249.1(9) of the <i>Income Tax Act</i> ceases to apply	249.1(9.1)	
47.	Reverse takeover of trust or partnership by a loss corporation	256(7)c.2)	
48.	Functional currency tax reporting	261(1) and (5)h)	
49.	Exempt policies	306(3) to (7) and (10)	
50.	Amount of a bank's taxable income		404(1) to (3)
51.	Amount of a federal credit union's taxable income	404.1	
52.	Income earned in a province by a corporation	412	
53.	International organizations and agencies		806
54.	Life insurer's Canadian life investment income – Part XII.3 of the <i>Income Tax Act</i>		1401(5)b)
55.	Definition of "official receipt" and "other recipient of a gift"		3500
56.	Prescribed distributions	5600j)	
57.	Foreign affiliate	5907(1.07), (8) and (8.1) <sup>(4)</sup>	
58.	Prescribed shares	6204(1) <sup>(4)</sup>	
59.	Repayments of pension benefits	6503	
60.	Saskatchewan Loan Forgiveness Program	7300d)	

TABLE (cont.)

**Position of the Ministère des Finances du Québec on the proposals relating to amendments to the *Income Tax Act* and the *Income Tax Regulations* and to related legislation, presented on September 16, 2016**

Clause <sup>(1)</sup>	Subject	Proposal retained <sup>(2)</sup>	Proposal not retained <sup>(2)</sup>
61.	Eligible service – registered pension plan	8503(3)a) <sup>(4)</sup>	
62.	Capital cost allowance	Schedule II, Class 43.1, para. d)	
63.	Amendment to <i>Economic Action Plan 2013 Act, No. 2</i> – alternative minimum tax	60(4)a) and b) <sup>(5)</sup>	
64.	Amendment to the <i>Regulations Amending the Income Tax Regulations (Omnibus, No. 3)</i>		29(14) <sup>(6)</sup>

(1) Clause number of the proposals presented by the Department of Finance Canada.

(2) Unless otherwise indicated, the references correspond to sections, subsections or paragraphs of the *Income Tax Act* or the *Income Tax Regulations* that, in accordance with the proposals presented on September 16, 2016, should be amended or introduced into the federal tax legislation or regulations.

(3) It being understood that this amendment will be extended to the amount granted under the refundable tax credit for child assistance.

(4) Although they require no legislative or regulatory amendments, the proposed federal amendments will be retained for the purposes of the Québec tax system.

(5) The references correspond to paragraphs of *Economic Action Plan 2013 Act, No. 2*.

(6) The reference corresponds to a subsection of the *Regulations Amending the Income Tax Regulations (Omnibus, No. 3)*.