

CHANGES TO VARIOUS MEASURES OF A FISCAL NATURE AND HARMONIZATION WITH CERTAIN FEDERAL TAX MEASURES

This information bulletin is intended to make public changes to various measures affecting individuals and businesses.

These changes are intended, among other things, to clarify the mandatory registration for the tax on lodging for persons operating a digital accommodation platform.

Clarification is also provided regarding the mandatory disclosure mechanism for certain transactions to protect the integrity and fairness of the Québec tax system.

This information bulletin announces adjustments to the notion of paid-up capital to reflect changes in accounting standards. The notion of “qualified labour expenditure” for the purposes of the refundable tax credits for the production of multimedia titles is also being amended. Furthermore, it makes public changes to the dividend tax credit as well as a temporary amendment to the refundable tax credit to support print media companies.

In addition, this information bulletin announces the extension of certain refundable tax credits, namely the one relating to the integration of information technologies and the credit for interest payable on financing obtained through La Financière Agricole du Québec’s seller-lender formula.

Lastly, it outlines the Ministère des Finances’ position on certain measures contained in *Budget Implementation Act, 2019, No. 1* and reports on the work in progress with respect to the Department of Finance Canada’s *News Release 2019-066* in connection with stock options.

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.

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1. CLARIFICATION REGARDING THE MANDATORY REGISTRATION FOR THE TAX ON LODGING FOR PERSONS OPERATING A DIGITAL ACCOMMODATION PLATFORM

For a number of years, Québec, like other jurisdictions elsewhere in the world, has seen the spread of various business models within a broader e-commerce framework. The emergence of online businesses in a variety of economic sectors has prompted the Québec government to examine various ways of adapting its tax system to the new reality of the digital era, out of a concern for integrity and fairness with respect to businesses operated in a more conventional manner.

In the tourism industry, this development since the introduction of the tax on lodging has resulted in the growing presence of digital platforms, which are often operated out of another country.

To take into account this new business model and to ensure greater fairness among the various stakeholders of the tourism industry, the Québec government announced, in the March 21, 2019 Budget Speech,¹ changes to the tax on lodging system so that a person operating a digital accommodation platform (hereinafter referred to as “person operating an accommodation platform”) will be required to register with Revenu Québec for the purposes of collecting and remitting the tax on lodging. These amendments will apply as of January 1, 2020.

However, it became clear that some clarifications were necessary to ensure that, on the one hand, persons operating an accommodation platform were able to comply with their new obligations and, on the other hand, that the application of these new obligations remained simple to administer, both for these persons and for the tax authorities.

□ Clarifications

■ Electronic returns and remittances

As announced in the 2019-2020 budget,² a person operating an accommodation platform will be required to render an account of the tax on lodging by means of a prescribed form containing the prescribed information, in the same manner as persons required under the tax on lodging system to collect the tax or an amount equal to it, and remit it to the Minister.

However, for the purposes of simplicity and consistency in the application and administration of the new obligation, it appeared that it would be preferable for persons operating an accommodation platform to be required to render an account of the tax on lodging electronically and for these persons to have the option of remitting the tax on lodging electronically.

As a result, it is being proposed to make the necessary changes so as to make it mandatory for persons operating an accommodation platform to render an account of the tax on lodging electronically and to allow them to remit the tax electronically.

¹ MINISTÈRE DES FINANCES DU QUÉBEC, *Québec Budget Plan – Additional Information 2019-2020*, March 21, 2019, p. A.17-A.18.

² *Ibid.*

■ Prescribed currencies

In the March 27, 2018 Budget Speech,³ the Québec government announced that the QST system would be changed so that suppliers with no physical or significant presence in Québec (hereinafter referred to as “non-resident suppliers”) be required to register with Revenu Québec, under a new specified registration system, for the purpose of collecting and remitting the QST applicable, in particular, to their taxable supplies of incorporeal moveable property and services made in Québec to specified Québec consumers.

As a result, since 2019, this system has allowed such registered suppliers to remit the QST collected in a prescribed currency other than the Canadian dollar. Currently, the currencies prescribed in the specified registration system are the U.S. dollar and the euro.

However, it appeared that several persons operating an accommodation platform subject to the obligation to register for the tax on lodging system are also non-resident suppliers registered in the specified registration system.

Consequently, for simplification purposes, and to lower the administrative costs of the system, both for persons operating an accommodation platform and for the tax authorities, changes will be made to the tax on lodging system so that persons operating an accommodation platform be allowed to remit the tax on lodging collected in a currency other than the Canadian dollar, as is the case in the specified registration system. In the future, the Minister of Revenue will be able to prescribe other currencies for the purpose of remitting the tax.

■ Assistance period

Moreover, during the 12-month period following January 1, 2020, that is, the effective date of the requirement to register for the tax on lodging system for persons operating an accommodation platform, Revenu Québec will adopt a practical approach to compliance, in the same way as what was announced for the specified registration system.⁴ Thus, where such persons show that they have taken reasonable measures to meet their new obligations, for example by making changes to their systems, and they are still unable to meet these obligations, Revenu Québec will assist them and no penalty will be imposed.

After this 12-month period, the penalties provided for in the existing tax legislation will be imposed on persons operating an accommodation platform that have not complied with the new obligations.

□ Date of application

These amendments will apply as of January 1, 2020.

³ MINISTÈRE DES FINANCES DU QUÉBEC, *Québec Economic Plan – Additional Information 2018-2019*, March 27, 2018, p. A.5-A.14.

⁴ *Ibid.*, p. A.13.

2. CLARIFICATION REGARDING THE MANDATORY DISCLOSURE MECHANISM

In 2009, the Ministère des Finances introduced a new mandatory disclosure mechanism for certain transactions to allow tax authorities to quickly identify certain behaviours for which the risk of non-compliance with the purpose and spirit of tax legislation was deemed to be high.^{5,6}

In order to expand its scope and improve its effectiveness, this mechanism was subject to legislative amendments in 2015⁷ to make transactions involving contractual coverage subject to the mandatory disclosure mechanism.

As a result of this intervention, three types of transactions were covered by this mandatory disclosure mechanism: transactions regarding which the advisor requires confidentiality on the part of his client,⁸ transactions for which the advisor's remuneration is conditional on the occurrence of certain events⁹ and transactions with contractual protection to protect the client against certain contingencies.¹⁰

In such circumstances, the mandatory disclosure mechanism briefly provides that where a taxpayer, or a partnership of which the taxpayer is a member, carries out any of these transactions resulting, directly or indirectly, for a taxation year or for a fiscal period, as the case may be, either in a tax benefit of \$25 000 or more for the taxpayer, or in an impact on the income of the taxpayer or the partnership, as the case may be, of \$100 000 or more, such transaction must be disclosed to Revenu Québec for such taxation year or such fiscal period.

More recently,¹¹ as part of the Tax Fairness Action Plan, additional measures have been put in place to better protect the integrity and fairness of the Québec tax system. These measures were part of the joint approach of the Ministère des Finances and Revenu Québec to combat aggressive tax planning schemes.

Among these measures, the Ministère des Finances announced that the tax legislation would be amended to extend the scope of the mandatory disclosure mechanism so that the Minister of Revenue could prescribe transactions or series of transactions that would be subject to mandatory disclosure. In particular, it was announced that:

- a taxpayer who will carry out a prescribed transaction or who is a member of a partnership carrying out such a transaction will be required to disclose it to Revenu Québec;

⁵ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2009-5*, October 15, 2009, p. 6 to 16.

⁶ *Taxation Act*, s. 1079.8.1 to 1079.8.15.

⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2015-2016 – Additional Information*, March 26, 2015, p. A.108-A.110.

⁸ *Taxation Act*, s. 1079.8.1, 1st ss., definition of the expression “confidential transaction”.

⁹ *Ibid.*, s. 1079.8.1, 1st ss., definition of the expression “transaction involving conditional remuneration”.

¹⁰ *Ibid.*, s. 1079.8.1, 1st ss., definition of the expression “transaction with contractual protection”.

¹¹ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2019-5*, May 17, 2019, p. 5 to 8.

- the information return in respect of a prescribed transaction by a taxpayer or partnership must be filed with Revenu Québec on the latest of the following dates: 60 days after the day on which the prescribed transaction begins, or 120 days after the day on which Revenu Québec first makes public the prescribed transaction for which disclosure is mandatory.

In order to better circumscribe the scope of the mandatory disclosure mechanism and provide greater certainty for taxpayers, the government will amend the tax legislation to allow the Minister of Revenue to specify, for each transaction subject to mandatory disclosure:

- the taxpayer(s) targeted by the mandatory disclosure;
- the moment where the sixty-day time limit to file the information return begins for taxpayers.

These amendments will allow taxpayers to better understand the scope of the mandatory disclosure and to pinpoint clearly and unequivocally the date on which the sixty-day time limit to file the information return begins. They will also prevent some taxpayers from realizing too late that they have forgotten to file their information return.

These amendments will apply to transactions made public by the Minister of Revenue and published in the *Gazette officielle du Québec* after the publication of this information bulletin.

3. ADJUSTMENT TO THE NOTION OF PAID-UP CAPITAL TO REFLECT CHANGES IN ACCOUNTING STANDARDS

The notion of paid-up capital, under the Québec tax legislation, is used to determine a corporation's eligibility for certain tax measures. For example, a Canadian-controlled private corporation may, in certain circumstances, claim the small business deduction insofar as its paid-up capital, and the paid-up capital of the corporations with which it is associated, if applicable, is less than \$15 million.

A corporation's paid-up capital is calculated¹² on the basis of its financial statements' components prepared in accordance with generally accepted accounting principles. Briefly, for a corporation other than a bank, a savings and credit union, a loan corporation, trust corporation or corporation trading in securities, this notion includes balance sheet components found in the corporation's equity and long-term liabilities, such as:

- the paid-up capital stock and any other participating interest in the nature of capital stock;
- the surpluses, provisions and reserves;
- the loans and advances granted directly or indirectly to the corporation;
- any other debt provided it has existed for more than six months.¹³

¹² *Taxation Act*, Part IV, Book III.

¹³ *Taxation Act*, s. 1136.

Moreover, the amount of paid-up capital of such a corporation may be reduced by certain items presented in its financial statements, such as the amount of its deficit, the amount of its future tax assets or certain costs pertaining to the issue of shares or bonds.¹⁴

Recently, the Accounting Standards Board, an independent body with the authority to establish accounting standards applicable to various Canadian entities, made changes to the accounting treatment of “retractable or mandatorily redeemable shares” (hereinafter called “redeemable shares”) issued in connection with certain transactions.

These changes could, depending on the circumstances, affect the accounting treatment of these redeemable shares and, consequently, alter the amount of paid-up capital determined under the Québec tax legislation.

Under these new standards, redeemable shares recorded at their issued and paid-up or stated capital amount in a corporation’s equity component may, under certain conditions, be reclassified as a liability and recorded at their redemption amount, resulting in an unwanted increase in the amount of the corporation’s paid-up capital, since the redemption amount usually exceeds the issued and paid-up or stated capital of these redeemable shares.

To offset this increase in the amount of paid-up capital, a consideration represented by the difference between the issued and paid-up or stated capital amount of these shares and their redemption amount may be recorded in the corporation’s financial statements using one of the following approaches: either this consideration reduces the amount of retained earnings shown in the corporation’s financial statements or this consideration, recorded in a separate component, reduces the amount of the corporation’s equity.

However, Québec tax legislation does not allow a consideration presented in a separate component of a corporation’s equity to be deducted in the calculation of paid-up capital, which therefore does not offset the increase in paid-up capital recorded and, consequently, calls into question the latter’s eligibility for certain tax measures, in particular the small business deduction.

In order to ensure that the Québec tax system takes into account the effects of a possible reclassification, regardless of the accounting approach used in the presentation of a corporation’s financial statements, the government will amend the tax legislation so that any provision recorded in connection with the redemption of retractable or mandatorily redeemable shares issued at the end of a year is included in the calculation of the amount of the paid-up capital.

For greater clarity, the inclusion in the calculation of the amount of paid-up capital of such a provision presented in a separate account from the corporation’s equity will only be possible if a redemption amount for such shares has been included in the calculation of the paid-up capital following the reclassification of such redeemable shares.

These changes will apply with regard to fiscal years beginning after December 31, 2019.

¹⁴ *Taxation Act*, s. 1137 and following.

4. CHANGES TO THE DIVIDEND TAX CREDIT

The Québec tax legislation provides specific rules for calculating the Québec tax payable by an individual resident in Québec on the last day of a taxation year who carried on a business outside Québec in Canada during the year, by an individual resident in Canada outside Québec on the last day of a taxation year who has, at any time in the year, carried on a business in Québec, and by an individual who was not resident in Canada at any time in a taxation year and who, during the year, was employed in Québec, carried on a business in Québec or disposed of taxable Québec property.

Briefly, under these rules, the tax payable by such an individual for a taxation year is equal to the portion of the tax otherwise determined represented by a proportion that takes into account the individual's income earned in Québec and his or her income earned in Québec and elsewhere or in Canada for that year.¹⁵

Where an individual is subject to these rules, for a taxation year, the amount that the individual may deduct from his or her tax otherwise payable for the year, in respect of the dividend tax credit, is determined by taking into account that proportion applicable to the individual for the year.

Changes will be made to the Québec tax legislation so that only an individual — including a trust — who is resident in Québec on the last day of a taxation year can benefit from the dividend tax credit for that year. In addition, such an individual resident in Québec on the last day of the taxation year will be able to deduct from his or her tax otherwise payable the full amount of the dividend tax credit to which the individual is entitled for the year, regardless of the proportion applicable for the year in determining his or her tax payable.

These changes will apply regarding a dividend received or deemed received after December 31, 2019.

5. TEMPORARY AMENDMENT TO THE REFUNDABLE TAX CREDIT TO SUPPORT PRINT MEDIA COMPANIES

In response to the important challenges faced by several Québec print media, the Québec government released, on October 2, 2019, a support plan aimed at Québec print media companies. The refundable tax credit to support print media companies was then announced.¹⁶

Briefly, a corporation¹⁷ other than an excluded corporation, that, in a taxation year, carries on a business in Québec and has an establishment there and that, for the taxation year, holds a qualification certificate issued by Investissement Québec certifying that, in that year, it has produced and disseminated a print media that is recognized as an eligible media, may claim the refundable tax credit to support print media companies. Corporations that are exempt from tax or that operate a broadcasting undertaking are excluded corporations for the purposes of this tax credit.

¹⁵ Special rules apply to each of these individuals, depending on their place of residence.

¹⁶ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2019-9*, October 2, 2019, p. 3-9.

¹⁷ A corporation that is a member of an eligible partnership may also, under certain conditions, claim this refundable tax credit for its share of qualified wages incurred by the eligible partnership.

To be an eligible media, for the purposes of the refundable tax credit, a media must, in particular, consist in the production and daily or periodic dissemination – by means of a print publication, an information website or a mobile application dedicated to information – of original written information content, which must pertain to general interest news and be specifically intended for the Québec public.

The refundable tax credit is at a rate of 35% and is calculated on qualified wages incurred by an eligible corporation after December 31, 2018 in respect of its eligible employees. This refundable tax credit may reach \$26,250 annually per employee.

An employee of an eligible corporation is an eligible employee, for a taxation year and for the purposes of the refundable tax credit, if a qualification certificate has been issued by Investissement Québec to the eligible corporation, for the taxation year, certifying that the employee worked at least 26 hours per week for an expected minimum period of 40 weeks for the eligible corporation and that the employee's duties were devoted in a proportion of at least 75% to directly undertaking or supervising activities relating to the production of original written information content for dissemination purposes in an eligible media of the corporation or to the carrying out of information technology activities¹⁸ related to the production or dissemination of such content. The employee must also, among other things, report for work at an establishment of the eligible corporation situated in Québec.¹⁹

The refundable tax credit to support print media companies is intended to provide assistance to eligible corporations for their activities related to the production and dissemination of original written information content on general interest news, as well as for their information technology activities related to the production or dissemination of such content.

However, it appears that some eligible corporations have isolated activities related to the carrying out of information technologies in a wholly-owned subsidiary whose activities consist essentially in providing information technology support to the eligible corporation. Consequently, these activities cannot qualify for tax assistance as they are not carried out by eligible employees of the eligible corporation.

¹⁸ For the purposes of the refundable tax credit, the following constitute information technology activities: management or operation of computer systems, application or technology infrastructure, operation of a customer relations management service, management or operation of a marketing information system designed to raise the visibility of the medium and promote it to an existing or potential clientele and any other activity of a similar nature that could be called a management or operating activity for the purposes of the eligible medium. However, administrative tasks and tasks related to digital conversion activities of a print media do not constitute an information technology activity.

¹⁹ An employee of the eligible corporation who reports for work at an establishment of the eligible corporation situated in Canada may, under certain conditions, qualify as an eligible employee for the purposes of the refundable tax credit.

Taking into account the retroactivity to January 1, 2019 of the refundable tax credit to support print media companies and with the aim of reaching its objective, changes will be made to this refundable tax credit so that an eligible corporation that has had carried out, on its behalf in Québec by a corporation in which it holds all the issued shares of each class of shares of the capital stock (subsidiary), information technology activities related to the production or dissemination of original written information content for dissemination purposes in an eligible media of the eligible corporation, may exceptionally claim for 2019, under certain conditions, this refundable tax credit in respect of all or part of the consideration it has paid to its subsidiary for such work.

Similarly, if an eligible partnership has had carried out on its behalf in Québec, for a fiscal period, by a corporation in which it holds all the issued shares of each class of shares of the capital stock (subsidiary), information technology activities related to the production or dissemination of original written information content for dissemination purposes in an eligible media of the partnership, a corporation that is a member of the eligible partnership at the end of the partnership's fiscal period may exceptionally claim for 2019, under certain conditions, the refundable tax credit to support print media companies for its share of all or part of the consideration paid by the partnership to the subsidiary for these activities.

□ Addition of an eligible expense for the refundable tax credit

The tax legislation will be amended to allow an eligible corporation to claim, for a taxation year, the refundable tax credit to support print media companies, which is calculated at a rate of 35%, on an amount equal to its eligible expense for the taxation year.

For greater clarity, for the purpose of calculating the refundable tax credit of the eligible corporation, for a taxation year, the eligible expense of the corporation for the year will be added to the amount corresponding to all of the amounts each of which represents the qualified wages incurred by the corporation in respect of an eligible employee for the year.

Similarly, a corporation, other than an excluded corporation, that is a member of an eligible partnership at the end of the partnership's fiscal period, may claim, for a taxation year in which the partnership's fiscal period ends, the refundable tax credit to support print media companies for an amount equal to its share of the eligible expense of the eligible partnership for the fiscal period.

In this regard, a corporation's share of the eligible expense of an eligible partnership of which it is a member, at the end of a fiscal period, will be equal to the agreed proportion, with respect to the corporation for that fiscal period, of that eligible expense.²⁰

For greater clarity, for the purpose of calculating the corporation's refundable tax credit for a taxation year, the corporation's share of an eligible expense of an eligible partnership for the fiscal period ended in the taxation year will be added to the corporation's share of all of the amounts each of which represents the qualified wages incurred by the partnership in respect of an eligible employee for the fiscal period.

²⁰ *Taxation Act*, s. 1.8. Briefly, the agreed proportion in respect of a corporation that is a member of a partnership, for a fiscal period, corresponds to the proportion that the corporation's share of the partnership's income or loss for the fiscal period is of the partnership's income or loss for that fiscal period.

The amendments set out below in respect of an eligible corporation will apply to an eligible partnership with the necessary adjustments.

□ Eligible expense

The tax legislation will be amended to provide that “eligible expense” of an eligible corporation, for a taxation year, means the portion of the consideration paid by the eligible corporation to its eligible subsidiary for work carried out on its behalf relating to information technology activities in connection with the production or dissemination of original written information content for dissemination purposes in an eligible media of the eligible corporation, in the period included in the eligible corporation’s taxation year, beginning after December 31, 2018 and ending before January 1, 2020, that can reasonably be attributed to wages incurred and paid by the eligible subsidiary in respect of its eligible employees.

In this regard, the wages that the eligible subsidiary has incurred and paid in respect of each eligible employee that will be taken into account in calculating the portion of the consideration paid by an eligible corporation for work performed on its behalf in connection with information technology activities may not exceed an amount equal to the product of multiplying \$75,000 by the number of days in the eligible corporation’s taxation year, after December 31, 2018, but before January 1, 2020, during which the employee qualifies as an eligible employee of the eligible subsidiary, out of 365.

■ Consideration and wages

The portion of the consideration paid that is included in the eligible expense must be reduced by the amount of any government or non-government assistance and any benefit or advantage that is attributable to wages incurred and paid by the eligible subsidiary to eligible employees, according to the usual rules.

Moreover, the wages incurred and paid by an eligible subsidiary in respect of an eligible employee will mean the wages calculated in accordance with the *Taxation Act* that the eligible subsidiary will incur and pay with respect to this employee.

□ Eligible subsidiary

The tax legislation will be amended so that an eligible subsidiary of an eligible corporation, for a taxation year of the eligible corporation, means a corporation, other than an excluded corporation, all of the issued shares of each class of shares of the capital stock of which are owned by the eligible corporation throughout the taxation year.

■ Excluded subsidiary

The expression “excluded subsidiary”, for a taxation year, will mean a corporation that is:

- a corporation exempt from tax for the taxation year;
- a corporation that, in the taxation year, carries on a broadcasting undertaking within the meaning of the *Broadcasting Act*,²¹

²¹ S.C. 1991, c. 11, ss. 2(1).

- a corporation part of the services rendered or property sold to other persons or partnerships, for the taxation year, have been rendered or sold to persons or partnerships other than the qualified corporation of which it is an eligible subsidiary.

❑ Eligible employee of an eligible subsidiary

The tax legislation will be amended so that the expression “eligible employee of an eligible subsidiary”, for a taxation year of the eligible corporation, means an employee of the eligible subsidiary in respect of whom Investissement Québec has issued a qualification certificate to the eligible corporation stating that the employee is an eligible employee of the eligible subsidiary for all or part of the taxation year, other than an excluded employee at any time in that taxation year.

In order to qualify as an eligible employee of an eligible subsidiary, an employee must also report for work at an establishment of the eligible subsidiary situated in Québec, according to the usual rules.²²

■ Excluded employee

An excluded employee, at a particular time, will mean an employee who is, at that time, a specified shareholder of the eligible corporation or, where the corporation is a cooperative, a specified member of the corporation.²³

Where the eligible subsidiary will be an eligible subsidiary of an eligible partnership, an excluded employee will designate an employee who will, at that time, be either a member of that partnership or a person not dealing at arm’s length with that member, or a specified shareholder or specified member, as the case may be, of that member.

For greater clarity, for the application of the refundable tax credit, a specified member, at a given period of time, of a corporation that is a cooperative means a member having, directly or indirectly, at that time, at least 10% of the votes at a meeting of the members of the cooperative or a person not dealing at arm’s length with that specified member.

❑ Employee certificate

The *Act respecting the sectoral parameters of certain fiscal measures* (Sectoral Act) will be amended so that an eligible corporation must obtain, for a taxation year, a certificate for each employee of its eligible subsidiary the wages of whom is reasonably part of the consideration for which the refundable tax credit will be claimed.

²² For example, an employee who reports for work both at an establishment of the corporation situated in Québec and at another establishment of the corporation situated outside Québec is deemed to report for work at an establishment of the corporation situated in Québec, if the employee does not report for work mainly at the corporation’s establishment situated outside Québec.

²³ A specified shareholder of a corporation, at a particular time, includes a taxpayer that owns, directly or indirectly at that time, no less than 10% of the issued shares of any class of the capital stock of the corporation that is related to the corporation and a person not dealing at arm’s length with such a taxpayer.

A qualification certificate may be issued in respect of an employee of the eligible subsidiary, for a taxation year of the eligible corporation, only if, for that taxation year, the employee meets the following conditions:

- he or she has worked for the eligible subsidiary at least 26 hours per week, for an expected minimum period of 40 weeks;
- his or her duties were devoted, for part or all of the taxation year, in a proportion of at least 75%, to directly undertaking or supervising work carried out on behalf of the eligible corporation and relating to information technology activities²⁴ in connection with the production or dissemination of original written information content for dissemination purposes in an eligible media of the corporation.

❑ Other terms and conditions

For an eligible corporation to claim the refundable tax credit to support print media companies with respect to an eligible expense, the eligible expense must have been paid at the time of claiming the refundable tax credit.

In addition, this refundable tax credit, or part of it, as the case may be, will be recovered by means of a special tax, in accordance with the usual rules, where a certificate issued by Investissement Québec for the purposes of the refundable tax credit is revoked. A special tax will also apply, in accordance with the usual rules, where an amount giving rise to the refundable tax credit will subsequently be reimbursed to the eligible corporation.

Moreover, the Sectoral Act provides for the period during which the request for issuance of a certificate or other sectoral document must be submitted to the sectoral body responsible for administering the sectoral parameters of a refundable tax credit.²⁵

Similarly, the tax legislation provides for the period during which a corporation must submit to Revenu Québec the documents supporting a claim for a refundable tax credit.²⁶

Additional time had been granted in some cases, when the refundable tax credit to support print media companies was introduced, for the submission of an application for the issuance of a sectoral document and for the submission of documents in support of the tax credit application. These deadlines will again be extended.

The Sectoral will be amended so that, for the purposes of the refundable tax credit to support print media companies, a certificate application must be made no later than the end date of the nine-month period beginning on the day that follows the publication of this information bulletin if the end of that period is later than the one already provided for in the Sectoral Act.

²⁴ These activities are described in more detail in *Information Bulletin 2019-9* of October 2, 2019, which sets out the terms and conditions for the implementation of the refundable tax credit to support print media companies.

²⁵ Sectoral Act, s. 9.1.

²⁶ *Taxation Act*, s. 1029.6.0.1.2.

The tax legislation will also be amended so that, for the purposes of the refundable tax credit to support print media companies, a corporation must submit to Revenu Québec the documents supporting the claim for a refundable tax credit, for a taxation year, no later than at the end of the twelve-month period that begins on the day following the publication of this information bulletin if the end of that period is later than the one already provided for in the tax legislation for that taxation year.

6. CHANGE TO THE NOTION OF QUALIFIED LABOUR EXPENDITURE FOR THE PURPOSES OF THE REFUNDABLE TAX CREDITS FOR THE PRODUCTION OF MULTIMEDIA TITLES

An initial refundable tax credit relating to the production of multimedia titles (“tax credit – general component”) was introduced in the May 9, 1996 Budget Speech.²⁷ A corporation that wishes to receive this tax assistance must obtain the required certificates regarding each multimedia title it produces.

In the March 31, 1998 Budget Speech,²⁸ a second refundable tax credit applicable to corporations engaged mainly in producing multimedia titles was implemented (“tax credit – specialized component”). A corporation wishing to receive this tax credit must obtain the required certificates regarding all of its activities.

For the purposes of these two tax credits, the amount of tax assistance a qualified corporation may receive is determined on the basis of the qualified labour expenditure incurred by the corporation.

Briefly, for the application of the two tax credits, the qualified labour expenditure of a qualified corporation, for a taxation year, consists of salaries or wages incurred in the year by the corporation regarding its employees for eligible production work relating to a qualified multimedia title, as well as a portion of the consideration the corporation paid under a service contract for such work than can reasonably be attributed to salaries or wages related to such work.

²⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1996-1997 – Budget Speech and Additional Information*, May 9, 1996, Appendix A, p. 45-48.

²⁸ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1998-1999 – Additional Information on the Budgetary Measures*, March 31, 1998, Section 1, p. 45-50.

❑ Change to the notion of « qualified labour expenditure »

The tax legislation establishes that the notions of “salary or wages” or “consideration” for the purposes of the notion of qualified labour expenditure does not include remuneration based on the profits or revenues derived from the operation of the multimedia title.²⁹ In this respect, remuneration that is determined in particular by reference to the type of use projected for the title and that may not be reimbursed if the title is not used as first anticipated is not considered remuneration based on the profits or revenues derived from the operation of a multimedia title.³⁰ Similarly, remuneration that is not computed by reference to an amount of profit or revenue derived from the operation of the multimedia title is not considered remuneration based on the profits or revenues derived from the operation of a multimedia title.³¹

In order to adapt these two tax credits to the realities of the industry, amendments will be made to the tax legislation so that remuneration based on the profits or revenues derived from the operation of a multimedia title may be considered a qualified labour expenditure.

More specifically, the rule under which a salary, wages or a consideration does not include remuneration based on the profits or revenues derived from the operation of a multimedia title, for the application of the definition of “qualified labour expenditure”, will be removed for the purposes of the tax credit – general component and the tax credit – specialized component.

❑ Date of application

This change will apply, regarding both the tax credit – general component and the tax credit – specialized component, in relation to a qualified labour expenditure incurred in a taxation year ending after the date of publication of this information bulletin or to a qualified labour expenditure incurred as part of a contract entered into in a taxation year ending after the date of publication of this information bulletin.

7. EXTENSION OF THE REFUNDABLE TAX CREDIT RELATING TO INFORMATION TECHNOLOGY INTEGRATION

In October 2013, a refundable tax credit was introduced temporarily to support Québec’s small and medium-sized businesses (SMBs) in the manufacturing sectors that want to invest in technology and integrate information technologies (IT) in their business processes.³²

As part of the budget speech of March 26, 2015, the government made changes to the tax credit so as to extend its application to primary sector businesses and prolong its duration to December 31, 2019, among other things.³³

²⁹ *Taxation Act*, s. 1029.8.36.0.3.8, 2nd ss., para. d and s. 1029.8.36.0.3.18, 2nd ss., para e.

³⁰ *Taxation Act*, s. 1029.8.36.0.3.8, 3rd ss., para. a and s. 1029.8.36.0.3.18, 3rd ss., para. a.

³¹ *Taxation Act*, s. 1029.8.36.0.3.8, 3rd ss., para. b and s. 1029.8.36.0.3.18, 3rd ss., para. b.

³² MINISTÈRE DES FINANCES ET DE L'ÉCONOMIE DU QUÉBEC, *Information Bulletin 2013-10*, October 7, 2013, p. 28-33.

³³ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2015-2016 – Additional Information*, March 26, 2015, p. A.53-A.56.

As part of the budget speech of March 17, 2016, this tax credit was again amended, in particular to include businesses in the wholesale or retail trade sectors.³⁴

Briefly, a qualified corporation³⁵ may claim the refundable tax credit relating to IT integration in primary, manufacturing, wholesale or retail trade sectors in respect of its expenditures relating to the supply of a qualified management software package.

This tax credit is at a rate of 20% and is calculated on 80% of expenditures relating to an IT integration contract for which Investissement Québec had issued a certificate. The tax credit's rate is reduced linearly where the qualified corporation's paid-up capital is between \$35 million and \$50 million and reaches zero at \$50 million.

The total amount of this refundable tax credit that a qualified corporation may receive, for the duration of such tax credit, regarding one or more eligible IT integration contracts, as the case may be, is limited to \$50,000.³⁶

For a qualified corporation to claim the refundable tax credit, expenditure relating to the supply of a qualified management software package must, in particular, be incurred before January 1, 2020, and the application for certificate regarding an eligible IT integration contract must be submitted to Investissement Québec prior to this date.

To continue to support Québec SMBs that want to invest in technology and integrate IT in their business processes, and to allow the government to assess the relevance of this measure in relation to its objective, the refundable tax credit relating to IT integration will be extended by one year.

As a result, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended to allow Investissement Québec to accept applications for a certificate in respect of an IT integration contract submitted before the contract is entered into and prior to January 1, 2021.

³⁴ MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2016-2017*, March 17, 2016, p. A.56-A.58.

³⁵ A qualified corporation that is a member of a qualified partnership at the end of the partnership's fiscal period ending in a taxation year may also claim, for the taxation year, under certain conditions, the refundable tax credit relating to IT integration regarding its share of the eligible expenses of the partnership for that fiscal period. The changes announced regarding the refundable tax credit relating to IT integration will also apply regarding an eligible IT integration contract of a partnership, with the necessary adaptations.

³⁶ In the case of an eligible IT integration contract in respect of which an application for a certificate was made prior to June 4, 2014, and for which Investissement Québec issued such a certificate, expenditures relating to the supply of a qualified management software package that are incurred before January 1, 2021, relating to such an IT integration contract will qualify based on the parameters in effect before June 4, 2014. In this case, the rate of the refundable tax credit is equal to 25% and the total amount of the tax credit relating to one or more IT integration contracts covered by this transitional rule is limited to \$62,500.

In addition, the *Taxation Act* will be amended so that, to qualify as eligible expenses for the refundable tax credit relating to IT integration, an amount relating to an eligible IT integration contract must, among other things, be incurred before January 1, 2021. Accordingly, when such an amount is paid more than 18 months after the end of the taxation year during which it was incurred, this amount must, in particular, be paid before July 1, 2022. Finally, when a corporation reimburses assistance that reduces the amount of its eligible expenses for the purposes of the refundable tax credit, the amount of the assistance reimbursement must be paid before January 1, 2023 in order to qualify for the tax credit.

8. EXTENSION OF THE REFUNDABLE TAX CREDIT FOR INTEREST PAYABLE ON FINANCING OBTAINED UNDER THE SELLER-LENDER FORMULA OF LA FINANCIÈRE AGRICOLE DU QUÉBEC

La Financière agricole du Québec offers a program called the “seller-lender formula” intended to facilitate transfers of farming businesses.

Under the formula, a seller can lend to a buyer, with La Financière agricole du Québec guaranteeing the loan and the buyer receiving an advantageous interest rate.

To further facilitate transfers of farming businesses, the government introduced a temporary refundable tax credit when it presented the *Update on Québec's Economic and Financial Situation* on December 2, 2014.³⁷

In brief, the refundable tax credit that a taxpayer may receive, under certain conditions, for a taxation year, is equal to 40% of the interest attributable to the taxation year that is paid by the taxpayer to a seller in respect of a loan covered by La Financière agricole du Québec's seller-lender formula. In addition, a taxpayer who is a member of a partnership, at the end of the partnership's fiscal period, may benefit, under certain conditions, from this tax credit for a taxation year in which the fiscal period ends, in respect of this taxpayer's share of the interest attributable to the fiscal period that is paid by the partnership to a seller in respect of a loan covered by the seller-lender formula.

The refundable tax credit for interest payable on financing obtained under the seller-lender formula of La Financière agricole du Québec applies to interest attributable to a ten-year period that begins on the particular day on which the agreement giving rise to the financing is entered into, in respect of a financing agreement initially entered into under the seller-lender formula of La Financière agricole du Québec after December 2, 2014 and before January 1, 2020.

To continue to meet the needs relating to farming businesses' succession and transfers, the government will extend the period for entering into a qualified financing agreement by five years.

More specifically, the tax legislation will be amended so that the refundable tax credit for interest payable on financing obtained under the seller-lender formula of La Financière agricole du Québec applies in respect of a financing agreement entered into under the seller-lender formula of La Financière agricole du Québec after December 2, 2014 but before January 1, 2025.

³⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2014-11*, December 2, 2014, p. 12-13.

9. HARMONIZATION WITH CERTAIN MEASURES OF BUDGET IMPLEMENTATION ACT, 2019, No. 1

On June 21, 2019, Bill C-97 entitled “An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures” (hereinafter referred to as “Act No. 1”) received Royal Assent. One of the purposes of Act No. 1 is to implement certain tax measures proposed in the March 19, 2019 federal budget.

The Ministère des Finances has already made Québec’s position public with respect to most of the tax measures included in Act No. 1, including through *Information Bulletin 2019-7*.³⁸ However, it announced that it would, at a later date, make known its position with regard to the exemption from income tax and the status of qualified donee of registered journalism organizations and to the tax measure for kinship care providers for the purpose of the Canada Workers Benefit.³⁹ Québec’s position can be found herein.

As a result, subject to the particular rules and exceptions set out below, the tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to the exemption from income tax and the status of qualified donee of registered journalism organizations.⁴⁰

In this regard, a journalism organization that holds a valid registration as a registered journalism organization for the purposes of the federal tax system will be deemed to hold such a registration as a registered journalism organization for the purposes of the Québec tax system, subject to the Minister of Revenue’s power to refuse or revoke such registration.

Similarly, a journalism organization that does not hold a valid registration as a registered journalism organization for the purposes of the federal tax system will not be recognized as a registered journalism organization for the purposes of the Québec tax system.

However, the following measures will not be 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 measures relate to⁴¹:

- the submission of a public information return and information relating to donations over \$5 000 and the disclosure of this information to the public;
- penalties for failure to file a return, incorrect information or false information;

³⁸ MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2019-7*, June 14, 2019, p. 4 to 7.

³⁹ The amendments made to the federal tax legislation and regulations relating to these measures are set out in budget resolutions 11, 40 to 51 and 60 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 19, 2019.

⁴⁰ These measures are set out in sections 30, 38, 40, 44 and 57 and subsections 31(1) to (4) (in part), (6) and (7), 37(1) to (3), (5) and (6) and 43(2), (3), (7) and (8) of the Act No. 1. Some of the measures retained may not require any amendments to Québec tax legislation or regulations.

⁴¹ These measures are set out in subsections 31(4) (in part) and (5), 37(4) and 42(1), (2) and (5), and sections 20, 39, 41 and 58 of the Act No. 1. For greater clarity, the provisions of the *Tax Administration Act* relating to penalties and the preservation of books and registers will apply to registered journalism organizations.

- the disclosure of information by a public servant;
- the conservation of books and records;
- kinship care providers clarifying that an individual may be considered to be the parent of a child in their care for the purpose of the Canada Workers Benefit, regardless of whether they receive financial assistance from a government under a kinship program.

In addition, Part 1 of the Act No. 1 implements the amendments to the federal tax legislation applicable to communal organizations and their members, which were announced in the Department of Finance Canada's *Fall Economic Statement 2018*.⁴² These amendments are intended to ensure that business income of a communal organization retains its character when it is allocated to members of the communal organization for tax purposes.

Québec's tax system is generally harmonized with the federal tax system insofar as the rules relating to communal organizations and their members are concerned. Consequently, Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the amendments to federal tax legislation with respect to the rules applicable to communal organizations and their members.⁴³

Lastly, the amendments made to the Québec tax legislation and regulations will be applicable on the same dates as those retained for the purposes of the provisions of the federal tax legislation and regulations with which they are harmonized.

10. ANNOUNCEMENT RELATING TO THE DEPARTMENT OF FINANCE CANADA'S NEWS RELEASE 2019-066 IN CONNECTION WITH STOCK OPTIONS

Briefly, an employee who acquires shares under a stock option granted to the employee by the employer or by a person with which the employer is not dealing at arm's length is deemed to have received, because of the employee's office or employment, a benefit equal to the amount by which the value of the shares at the time the employee acquired them exceeds the aggregate of the amount paid or to be paid by the employee for the shares and the amount paid by the employee to acquire the right to acquire the shares.

In the case of a stock option granted by a Canadian-controlled private corporation to an employee of such a corporation, the value of the benefit must be included in computing the employee's income for the taxation year in which the shares were disposed of. In all other cases, the value of the benefit must be included in computing the employee's income for the taxation year in which the shares were acquired.

⁴² DEPARTMENT OF FINANCE CANADA, *Fall Economic Statement 2018 – Investing in Middle Class Jobs*, November 21, 2018, p. 106.

⁴³ These amendments are set out in section 25 of the Act No. 1.

An employee who transfers or disposes of rights in respect of such stock option is deemed to have received, because of the employee's office or employment, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire these rights. The value of the benefit must be included in computing the employee's income for the taxation year in which the transfer or disposition of the rights occurred.

An employee who is required to include, in computing his or her income for a particular taxation year, the value of a benefit the employee is deemed to have received in respect of a stock option granted to the employee by the employer or by a person with which the employer is not dealing at arm's length may deduct, in computing his or her taxable income for the year for the application of the federal taxation system, an amount equal to 50% of the value of the benefit, subject to certain conditions. Under the Québec tax system, an employee may deduct, in computing his or her taxable income for the year, an amount equal to 25% or 50%, as the case may be, of the value of the benefit.

In the federal budget of March 19, 2019,⁴⁴ the federal government announced its intent to limit the use of preferential tax treatment for stock options for employees of large, long-established, mature firms.

On June 17, 2019, the Department of Finance Canada announced, in a news release,⁴⁵ a Notice of Ways and Means Motion to implement tax measures relating to the stock option regime in response to the announcement made in the March 19, 2019 federal budget. Among other things, it is intended to establish, under the stock option regime, a ceiling of \$200,000 for each year of acquisition, so that an employee who obtains stock options may only benefit from preferential treatment related to stock options for the portion of the options relating to shares the fair market value of which, at the time the agreement is entered into, is at most \$200,000.

However, the amendments announced by the Department of Finance Canada will not apply to options granted to employees by Canadian-controlled private corporations or start-up, emerging or scale-up companies.

The characteristics of what will be taken into consideration in determining whether a company is starting, emerging or scale-up were the subject of consultations that ended on September 16, 2019. These characteristics have not been made public to date.

The amendments to the stock option regime will apply to stock options granted under an agreement entered into on or after January 1, 2020.

The Ministère des Finances is continuing to study the proposed amendments to the federal tax legislation relating to the stock option regime and will make known at a later date its position on whether or not the Québec tax legislation should be harmonized with the federal tax legislation in this regard. However, in the event that the Québec tax legislation is amended to incorporate these amendments, the changes made to Québec's tax legislation may be applicable on the same date as that set for the application of the amendments to the federal tax legislation with which they are harmonized.

⁴⁴ DEPARTMENT OF FINANCE CANADA, *Budget 2019 – Investing in the Middle Class*, March 19, 2019, p. 202 à 205.

⁴⁵ DEPARTMENT OF FINANCE CANADA, *News release 2019-066: Government of Canada to Make System Fairer, Launches Consultations on Stock Options*, June 17, 2019, www.fin.gc.ca/n19/19-066-eng.asp