ISSN 2368-8874

Finances Québec

INFORMATION BULLETIN

November 6, 2020 2020-12

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

This information bulletin makes public changes to various tax measures that affect individuals or businesses.

The changes introduce, inter alia, into Québec tax legislation a deduction applying to the computation of personal income to consider situations where the reimbursement of the new Canada Recovery Benefits is required.

Changes are also being announced to recognize new excluded amounts of assistance for the application of different tax credits in the cultural sector and in respect of the definition of the expression “non-government assistance” for the purposes of tax incentives.

Moreover, the information bulletin announces changes to the refundable tax credits for holders of a taxi driver’s or owner’s permit that reflect the new legal framework applicable to remunerated passenger transportation by automobile with a view to the elimination of the tax credits.

Lastly, it indicates the position of the Ministère des Finances with respect to various measures that the federal government has announced. The measures concern the flow-through share regime, Health and Welfare Trusts, the accelerated investment incentive, and the depreciation rules applicable to zero-emission vehicles.

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.

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

1. CHANGES TO THE QUÉBEC TAXATION SYSTEM IN CONNECTION WITH THE INTRODUCTION OF THE NEW CANADA RECOVERY BENEFITS

On October 2, 2020, Bill C-4, the *Act relating to certain measures in response to COVID-19* (hereinafter referred to as Bill C-4) was sanctioned.[1] The bill is intended principally to support economic recovery in Canada. Part I of Bill C-4 sets out the *Canada Recovery Benefits Act* (hereinafter referred to as the CRB Act), which introduces three new benefits to be paid by the Canada Revenue Agency (CRA): the Canada Recovery Benefit (CRB), the Canada Recovery Sickness Benefit (CRSB), and the Canada Recovery Caregiving Benefit (CRCB).

These three new benefits make provision for a weekly payment of $500 and include the characteristics indicated below.

First, the CRB is paid to individuals who are ineligible for employment insurance and who need income support for any two-week period that falls within the period beginning on September 27, 2020 and ending on September 25, 2021.[2] The workers covered, including self-employed workers, must have stopped working because of COVID-19 or their income must have fallen by at least 50%. Moreover, they must be available and looking for work.

The CRSB is paid for a maximum period of two weeks[3] to workers who are sick or who must self-isolate for reasons related to COVID-19 or who have an underlying health problem that makes them more vulnerable to contracting COVID-19.

Lastly, the CRCB is offered to eligible households for a maximum period of 26 weeks.[3] Individuals eligible for this benefit must have stopped working to care for a child under 12 years of age or another family member[4] who requires supervised care in a context where the school, day care centre or care establishment is closed because of COVID-19.

The CRB Act stipulates that a person who receives the CRB and whose income exceeds $38 000 for 2020 or 2021 will have to repay fifty cents for each dollar of earned income during that year beyond the $38 000 income threshold, up to the total amount of the benefits received during the year in question, net of any amount to which the person was not entitled or in excess of the amount to which he was entitled.

The amount due for the year in question will be a debt to the federal government that will be payable and whose recovery can be effected as such by the Minister of National Revenue as of the balance-due date within the meaning of the federal *Income Tax Act.*

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1 S.C. 2020, c. 12.

2 The maximum number of two-week periods in respect of which the CRB can be paid is 13 (corresponding to a maximum of 26 weeks), but the number of two-week periods could be amended by regulation.

3 The CRSB and the CRCB can be paid in respect of any week that falls within the period beginning on September 27, 2020 and ending on September 25, 2021.

4 A person deemed a close relative or who considers himself a close relative is put in the same category as a member of the family.

What is more, should the Minister of National Revenue believe that a person has received a benefit stipulated by the CRB Act to which he was not entitled or such a benefit whose amount exceeded that to which the person was entitled, the person must promptly repay the overpayment. The amounts that, according to the Minister, were paid unduly or in excess will constitute, as of the date of payment, debts to the federal government that will be payable and whose recovery can be effected in this respect by the Minister of National Revenue as of the date on which the Minister believes that such amounts were paid unduly.

Aside from the provisions respecting the implementation of new benefits, including those applicable in the event of reimbursement, correlative amendments to the federal *Income Tax Act* and the *Income Tax Regulations* are made by the CRB Act introduced by Bill C-4. Accordingly, the *Income Tax Regulations* are amended to stipulate that the withholding at source of tax occurs when economic recovery benefits are paid.[5]

Furthermore, the federal *Income Tax Act* has been amended to allow for the deduction in the computation of a taxpayer's income, for a given taxation year, any reimbursement of benefits payable by the taxpayer no later than the balance-due date applicable to him for the year insofar as the amount was not deductible in the computation of his income for a previous taxation year.

To consider this possibility, Québec tax legislation will be amended to allow for the deduction of such repayments and consider the consequential amendments stipulated by federal legislation. The changes to the Québec taxation system will be applicable on the same dates as those adopted for the application of the federal measures.

2. ADDITION OF EXCLUDED AMOUNTS OF ASSISTANCE AND MODIFICATION OF THE DEFINITION OF THE EXPRESSION "NON-GOVERNMENT ASSISTANCE" FOR THE APPLICATION OF TAX INCENTIVES

The Québec taxation system grants tax incentives to businesses in the form of refundable or non-refundable tax credits among others. Generally, the amount of government assistance or non-government assistance, except for an excluded amount of assistance, that a taxpayer has received, is entitled to receive or can reasonably expect to receive reduces the amount of eligible expenses considered in the calculation of such tax incentives.

The tax legislation will be amended with respect to the excluded amounts of assistance for the application of certain tax credits in the cultural sector and to the definition of the expression "non-government assistance" for the purposes of tax incentives.

5 Pursuant to the amendments, withholding at source of federal tax at a 5% rate will occur on such benefits when they are paid to Québec residents. The economic recovery benefits paid by the Canada Revenue Agency will also be subject to withholding at source of Québec tax at the 5% rate.

2.1 New excluded amounts of assistance for the application of tax credits in the cultural sector

Generally, the amount of financial assistance from a public body in the cultural sector constitutes an excluded amount of assistance and does not reduce the amount of eligible expenses considered in the calculation of tax credits. Such an exclusion can cover all financial assistance granted by a given public body or target financial assistance paid by such a body under a given program. In the latter instance, for the different sources of funding in the cultural sector to remain complementary, the tax legislation must be amended every time that such a body grants amounts of assistance under a new program so that the latter are also excluded amounts of assistance.

In recent months, assistance programs in the cultural sector have been established under the Economic Relaunch Plan for the Cultural Milieu. The Société de développement des entreprises culturelles (SODEC) grants amounts of financial assistance pursuant to several of the programs. In this context and to achieve simplicity, the amounts of financial assistance paid by the SODEC for the application of certain tax credits in the cultural sector should be excluded.

More specifically, the tax legislation will be amended so that the amount of financial assistance that the SODEC grants constitutes an excluded amount of assistance for the application of the following tax credits:

- the refundable tax credit for film dubbing;
- the refundable tax credit for the production of multimedia environments or events staged outside Québec;
- the refundable tax credit for book publishing.

The amendments will apply to the amount of assistance granted after March 31, 2020.

2.2 Modification of the definition of the expression "non-government assistance"

For the application of the refundable tax credits and other tax incentive measures, the expression "non-government assistance" refers, briefly, to an amount received by a taxpayer in the course of earning income from a business or property as a refund, reimbursement, contribution or allowance or as assistance in respect of a property, an outlay or expense or as an inducement that would be included in the computation of the taxpayer's income were no account taken of the fact that this amount reduced the cost or the capital cost of the property or the amount of the outlays or expense, as the case may be[6].

However, such an amount that a taxpayer receives as an inducement or other payment if it is already included in the computation of his income or deducted in computing any balance of undeducted outlays, expenses or other amounts[7] is not considered non-government assistance.

6 See the definition of the expression "non-government assistance" in the first paragraph of section 776.1.27 and the first paragraph of section 1029.6.0.0.1 of the *Taxation Act.*

7 *Taxation Act,* sub-par. 87 *w*)(i).

The same applies if the taxpayer receives the amount in respect of a restrictive covenant and the amount was included in the computation of the income of a person related to the taxpayer[8].

The application of the latter exceptions in the context of determining an amount of non-government assistance for the application of refundable tax credits and other tax incentive measures produces a result that does not conform to fiscal policy. Consequently, the definition of the expression “non-government assistance” for the application of refundable tax credits and other tax incentive measures[9] will be modified so that, to determine the amount of non-government assistance that must be applied to reduce a taxpayer’s eligible expenses considered in the calculation of a tax incentive, for a taxation year, account is not taken of the following exceptions:

- the amount is already included in the computation of the taxpayer’s income, or deducted in computing any balance of undeducted outlays, expenses or other amounts, for the year or for a preceding taxation year;[10]
- the amount is received in respect of a restrictive covenant and was included in the computation of the income of a person related to the taxpayer.[11]

This modification will apply to assistance granted after the date of publication of this information bulletin.

3. Elimination of the tax credits for holders of a taxi driver’s or owner’s permit

The taxation system grants a refundable tax credit to holders of a taxi driver’s or owner’s permit.

Briefly, a taxpayer who is resident in Québec on December 31 of a taxation year who, at any time during the year, is the holder of a taxi driver’s permit can benefit for that taxation year from a refundable tax credit of up to $594 in 2020 (hereinafter referred to as the “maximum amount”).[12] If he is also the holder of one or more taxi owner’s permits on December 31 of that taxation year he can only benefit from the tax credit if he has not assumed all or almost all of the fuel cost of bringing into service any motor vehicle attached to at least one of the taxi owner’s permits of which he is the holder.

A taxpayer who, on the December 31 that falls within a taxation year, is the holder of one or more taxi owner’s permits can benefit in that taxation year from a refundable tax credit of up to an amount equivalent to the product obtained by multiplying the maximum amount applicable for the year by the number of taxi owner’s permits of which he is the holder on that date and in respect of which he assumed during the taxation year all or almost all of the fuel cost of bringing into service any motor vehicle attached to it.

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8 *Taxation Act,* sub-par. 87 *w*)(v).

9 See note 6.

10 See note 7.

11 See note 8.

12 The maximum amount, corresponding to $594 in 2020, is automatically indexed annually.

However, the refundable tax credit, for a taxation year, from which a taxpayer who is the holder of a taxi driver's permit or a taxi owner's permit can benefit cannot exceed an amount calculated according to his income, for the taxation year, (hereinafter referred to as the "limit applicable to the tax credit"). This limit corresponds to 2% of the taxpayer's total gross income, for the taxation year, from his employment as a taxi driver, his gross revenue, for the year, from his business of providing transportation by taxi, and his gross revenue, for the year, from the leasing of any motor vehicle attached to a taxi owner's permit of which he is the holder.

Furthermore, when a partnership is the holder on the December 31 that falls within a fiscal period of one or more taxi owner's permits and it has assumed during the fiscal period all or almost all of the fuel cost of bringing into service any motor vehicle attached to the permit, a taxpayer who is a member of the partnership at the end of this fiscal period can benefit, for his taxation year in which the fiscal period ends and subject to satisfying certain conditions, from a refundable tax credit equivalent to his share, for this fiscal period, of the lesser of the product obtained by multiplying the maximum amount applicable for the year by the number of such permits of which the partnership is the holder on that date and the limit applicable to the tax credit of the partnership for this fiscal period.

The limit applicable to the tax credit of a partnership, for a fiscal period, corresponds to 2% of the partnership's total gross revenue, for the fiscal period, from its business of providing transportation by taxi and its gross revenue, for this fiscal period, from the leasing of any motor vehicle attached to a taxi owner's permit of which it is the holder.

To apply the tax credits, a taxi driver's permit or a taxi owner's permit means such a permit referred to in the *Act respecting transportation services by taxi.*[13]

On October 10, 2019, Bill 17, *An Act respecting remunerated passenger transportation by automobile,* was assented to.[14] The Act provides for a new legal framework for remunerated passenger transportation by automobile, which came into force on October 10, 2020.[15] Accordingly, since October 10, 2020, this mode of transportation must be provided by a qualified driver using a qualified automobile. The *Act respecting transportation services by taxi* was repealed on October 10, 2020.[16]

What is more, to ensure a better transition of the application of the tax credits for holders of a taxi driver's or taxi owner's permit following the coming into force of the *Act respecting remunerated passenger transportation by automobile*[17] and the repeal of the *Act respecting transportation services by taxi*, the tax credits will be modified.

13 CQLR, chapter S-6.01.

14 S.Q. 2019, c. 18.

15 *Ibid.*, s. 310.

16 *Ibid.*, s. 255.

17 CQLR, chapter T-11.2.

❑ Tax credit for holders of taxi driver's permit

The refundable tax credit for holders of a taxi driver's permit will be eliminated gradually. In 2020, a taxpayer can benefit from the refundable tax credit for holders of taxi driver's permit, subject to the modifications made to consider the new legal framework governing remunerated passenger transportation by automobile. The level of assistance will be reduced by 50% for 2021 and the tax credit will be eliminated starting in 2022.

■ Changes to the conditions applicable for 2020

In order to take into consideration the coming into force of the *Act respecting remunerated passenger transportation by automobile* and the changes announced in this information bulletin to the refundable tax credit for holders of a taxi owner's permit, consequential amendments will be made with respect to 2020 in the refundable tax credit for holders of a taxi driver's permit.

Accordingly, the tax legislation will be amended so that to determine a taxpayer's eligibility for the refundable tax credit for holders of a taxi driver's permit for 2020 the condition that the taxpayer is not the holder of a taxi owner's permit on December 31 in this year is replaced by the condition that the taxpayer is not the holder of a taxi owner's permit on October 9, 2020.

When the taxpayer has been the holder of one or more taxi owner's permits on October 9, 2020, he can only benefit from the refundable tax credit for holders of a taxi driver's permit, for the year 2020, if he has not assumed all or almost all of the fuel cost of bringing into service any motor vehicle attached to at least one of the taxi owner's permits of which he is the holder and if he complies with the other conditions stipulated.

■ Changes to the conditions applicable for 2021

The tax legislation will be amended so that, for the year 2021, the condition that a taxpayer must be the holder a taxi driver's permit referred to in the *Act respecting transportation services by taxi* at any time in the year is withdrawn. This condition will be replaced by the obligation for the taxpayer to have held on October 9, 2020 a valid taxi driver's permit issued pursuant to the *Act respecting transportation services by taxi,* to be deemed a driver authorized to provide remunerated passenger transportation by automobile by the Société de l'assurance automobile du Québec starting October 10, 2020,[18] and to be a driver authorized to provide remunerated passenger transportation by automobile by the Société de l'assurance automobile du Québec at any time in 2021.

For greater clarity, the condition respecting the holding of a taxi owner's permit will be withdrawn since it will no longer be applicable.

18 *Act respecting remunerated passenger transportation by automobile*, s. 292.

The tax legislation will also be amended so that a taxpayer who satisfies, for the year 2021, all the conditions pertaining to the refundable tax credit for holders of a taxi driver's permit may benefit from a tax credit equivalent to the lesser of the following amounts:

— an amount representing 50% of the maximum amount that would have otherwise applied for the year;

— an amount representing 1% of the taxpayer's total gross income for the year from his employment as a taxi driver and his gross revenue for the year from his business of providing transportation by taxi.

■ Abolition starting in the 2022 taxation year

The refundable tax credit for holders of a taxi driver's permit will be eliminated starting in the 2022 taxation year.

❑ Tax credit for holders of a taxi owner's permit

For a taxpayer to benefit for a taxation year from the refundable tax credit for holders of a taxi owner's permit, the taxpayer must among others be the holder of a taxi owner's permit on December 31 of that taxation year. As noted earlier, for the application of the tax credit, a taxi owner's permit means such a permit referred to in the *Act respecting transportation services by taxi.*

In keeping with the new framework governing remunerated passenger transportation by automobile, this mode of transportation must be provided using a qualified automobile within the meaning of the *Act respecting remunerated passenger transportation by automobile.*

The holding of a taxi owner's permit is therefore replaced as of October 10, 2020 by the obtaining of an authorization from the Société de l'assurance automobile du Québec covering the automobile or the registration of the automobile with an operator.

Consequently, for a taxation year that begins after December 31, 2019, one of the conditions to benefit from the refundable tax credit for holders of a taxi owner's permit can no longer be satisfied. Furthermore, the tax legislation will be amended such that a taxpayer can benefit subject to certain conditions from the tax credit for his taxation year that begins after December 31, 2019 and that includes October 9, 2020.

Hence, for this taxation year, the requirement that a taxpayer must be the holder of a taxi owner's permit in force on December 31 of the taxation year will be replaced by the requirement to be the holder of a taxi owner's permit in force on October 9, 2020. The other conditions to be satisfied to benefit from the tax credit remain the same.

Additionally, to calculate the refundable tax credit for holders of a taxi owner's permit for this taxation year, the limit applicable to the tax credit will be calculated solely considering the taxpayer's total gross income from employment as a taxi driver, his gross revenue from his business of providing transportation by taxi, and his gross revenue from the leasing of any motor vehicle attached to a taxi owner's permit of which he is the holder attributable to the portion of the taxation year that precedes October 10, 2020.

The changes to the refundable tax credit for holders of a taxi owner's permit will also apply, with the requisite adaptations, to a partnership that holds a taxi owner's permit for a fiscal period that began after December 31, 2019 and that includes October 9, 2020 when the partnership holds such a permit in force on October 9, 2020.

Lastly, for greater clarity, the refundable tax credit for holders of a taxi owner's permit will be eliminated for a fiscal period that begins after October 9, 2020 when the permit holder is a partnership and, in other cases, for a taxation year that begins after this date.

4. Harmonization with the July 10, 2020 News Release from the Department of Finance Canada relating to Flow Through Shares Regime

On July 10, 2020, the Department of Finance Canada proposed by way of a news release[19] changes to the federal taxation system applicable to junior mining exploration corporations and others flow-through shares issuers. The proposed changes seek to extend by 12 months the period in which to spend the capital obtained by means of such a share issue.

Briefly, under the flow-through share regime, an issuing corporation may renounce in favour of a person holding such a share Canadian exploration expenses (hereinafter referred to as "eligible expenses") that the corporation has incurred. Two rules describe the periods during which the issuing corporation must incur the eligible expenses to renounce them in favour of an investor, that is, the general rule and the look-back rule.

According to the general rule, an issuing corporation must incur the eligible expenses during the period beginning on the date of the conclusion of the flow-through share agreement and ending 24 months after the end of the month during which the agreement was concluded. The issuing corporation may then renounce the eligible expenses, once they have been incurred, within the time limit and according to the terms and conditions that the tax legislation stipulates.

According to the look-back rule, an issuing corporation may conclude during a calendar year a flow-through share agreement with an investor and renounce the eligible expenses in favour of the investor within the time limit and according to the terms and conditions that the tax legislation stipulates such that the renunciation takes effect on December 31 of the calendar year in which the agreement was concluded even if the expenses were not incurred at the time of the renunciation. However, the corporation is obliged to incur the eligible expenses during the calendar year following the year in which the agreement was concluded.

When an issuing corporation renounces the eligible expenses pursuant to the look-back rule, it must pay a special tax for each month of the calendar year following the year in which the agreement was concluded, except for the month of January, which is calculated on the portion of the eligible expenses that were not incurred before the end of the month.

[19] Department of Finance Canada, "Government Supports Jobs and Safe Operations of Junior Mining Exploration," July 10, 2020, available at: https://www.canada.ca/en/department-finance/news/2020/07/government-supports-jobs-and-safe-operations-of-junior-mining-exploration.html

It is also obliged to pay a special offsetting tax on the portion of the eligible expenses that it has renounced but that were not incurred at the end of the month of December in the year following the calendar year in which the agreement was concluded. In the same way, in the latter instance, the taxation authorities can determine again the tax payable by the investors by considering the reduction of the amount that the issuing corporation could renounce.

The proposal that the Department of Finance Canada made public on July 10, 2020 seeks to grant an issuing corporation an additional time period of 12 months, that is, a 36-month period following the end of the month during which the flow-through share agreement with an investor was concluded to incur the eligible expenses that it can renounce in favour of the investor pursuant to the general rule. It is proposed that the additional time be granted with respect to agreements concluded as of March 1, 2018 and prior to 2021.

In the same way, the proposal seeks to grant an issuing corporation an additional time period of 12 months, that is, a 24-month period following the calendar year in which the flow-through share agreement with an investor was concluded to incur the eligible expenses that it renounces in favour of the investor pursuant to the look-back rule. It is proposed that the additional time be granted with respect to agreements concluded in 2019 or in 2020. Changes are also proposed respecting the special tax and the special offsetting tax.

Québec tax legislation is generally harmonized with federal tax legislation from the standpoint of the flow-through share regime and the rules governing the renunciation of eligible expenses (general rule and look-back rule) except for the discretion that the Québec Minister of Revenue may exercise to grant an issuing corporation an additional one-year time limit to incur the Québec exploration expenses that it renounced in favour of an investor to apply the look-back rule when the corporation was unable to incur such expenses within the prescribed time because of circumstances beyond its control.[20]

Québec tax legislation will thus be amended to incorporate, with adaptations on the basis of its general principles, the proposed changes to the federal taxation system that grant an additional 12-month time limit to incur the eligible expenses that an issuing corporation can renounce in favour of an investor under the flow-through share regime.

The modifications to the Québec taxation system will be adopted only following assent to any federal statute implementing the changes to the federal tax legislation, taking into account technical amendments that may be made prior to assent. The amendments to Québec tax legislation will be applicable on the same dates as those retained for the application of the federal provisions with which they are being harmonized.

Moreover, because of the additional 12-month time limit from which an issuing corporation can benefit to incur eligible expenses, the discretion of the Québec Minister of Revenue to grant such a corporation an additional one-year time limit to incur Québec exploration expenses when the look-back rule applies cannot be exercised in respect of agreements concluded with an investor in 2019 or 2020.

20 *Taxation Act*, s. 359.8.1.

5. HARMONIZATION WITH DEPARTMENT OF FINANCE CANADA NEWS RELEASE 2019-053 RELATING TO HEALTH AND WELFARE TRUSTS

A Health and Welfare Trust is a trust that an employer establishes to provide its employees with health and welfare benefits. Federal and Québec tax legislations do not explicitly establish the tax treatment of such trusts, which hinges on administrative positions.

Moreover, in 2010, the rules governing Employee Life and Health Trusts were added to federal tax legislation. Such trusts also grant employees health benefits. Subject to the distinctive characteristics specific to the Québec taxation system, Québec tax legislation has been harmonized in this respect with federal tax legislation.

On February 27, 2018,[21] the Department of Finance Canada announced measures pertaining to Health and Welfare Trusts. It was announced that the Canada Revenue Agency would no longer apply its administrative positions to Health and Welfare Trusts established after February 27, 2018, that it would apply until late 2020 its administrative positions to trusts established prior to February 28, 2018, and that it would subsequently apply the usual taxation rules respecting trusts to the Health and Welfare Trusts that are not converted or liquidated. On July 10, 2018,[22] the Ministère des Finances du Québec announced that, following the example of the Canada Revenue Agency, Revenu Québec would no longer apply its administrative positions to Health and Welfare Trusts established after February 27, 2018, that it would apply until late 2020 its administrative positions to trusts established prior to February 28, 2018, and that it would subsequently apply the usual taxation rules respecting trusts to the Health and Welfare Trusts that are not converted or liquidated.

On May 27, 2019, the Department of Finance Canada announced in a press release[23] legislative proposals aimed at facilitating the conversion of existing Health and Welfare Trusts into Employee Life and Health Trusts and modifying the tax rules governing such trusts to allow the existing Health and Welfare Trusts to operate in a manner similar to that in which they currently operate. What is more, the proposed modifications stipulate that the Health and Welfare Trusts that have not been converted into Employee Life and Health Trusts before 2021 or that have not been liquidated will generally be deemed employee benefit plans.

Given that the Québec taxation system is, in general, harmonized with the federal taxation system from the standpoint of the tax treatment applicable to Health and Welfare Trusts and to Employee Life and Health Trusts, Québec tax legislation will be amended to incorporate, with adaptations based on its general principles, most of the measures pertaining to Health and Welfare Trusts and to Employee Life and Health Trusts. However, the measures relating to the tax applicable to prohibited investments in an Employee Life and Health Trust will not be retained.

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21 Department of Finance Canada, *Tax Measures: Supplementary Information,* February 27, 2018. [Companion document to the 2018 Budget], budget resolution 27.

22 Ministère des Finances du Québec, *Information Bulletin 2018-6,* July 10, 2018, pages 4-5.

23 Department of Finance Canada, *News Release 2019-053*, “Department of Finance Releases Draft Legislative Proposals Supporting the Conversion of Health and Welfare Trusts,” May 27, 2019, available at: https://www.canada.ca/en/department-finance/news/2019/05/department-of-finance-releases-draft-legislative-proposals-supporting-the-conversion-of-health-and-welfare-trusts.html.

What is more, the choice that a trust makes for the application of federal tax legislation to be deemed an Employee Life and Health Trust will be deemed to have been made for the application of Québec tax legislation. Should no valid choice be made for the application of federal tax legislation, no choice will be possible for the application of Québec tax legislation. The same is true of the notice concerning a tax-deferred transfer of property between trusts.

Lastly, the modifications to the Québec taxation system will be adopted only following the assent to any federal statute implementing the changes to the federal tax legislation, taking into account the technical amendments that may be made prior to the assent. The changes will be applicable on the same dates as those retained for the application of the federal measures with which they are being harmonized.

6. HARMONIZATION WITH THE JULY 30, 2019 NEWS RELEASE FROM THE DEPARTMENT OF FINANCE CANADA

On July 30, 2019, the Department of Finance Canada made public, by way of a news release, legislative proposals to amend the *Income Tax Act,* the *Income Tax Regulations,* and other legislation.[24] The proposals are intended to act upon certain tax measures proposed in the context of the March 19, 2019 federal budget.

The Ministère des Finances du Québec has already made public Québec's position in respect of most of the tax measures in *Information Bulletin 2019-7.*[25]

The legislative proposals also modify the tax measures in *Budget Implementation Act, 2019, No. 1*.[26] The measures concern the accelerated investment incentive for resource-related expenditures and depreciable assets, and the enhanced rate of 100% for the first year of the capital cost allowance in respect of eligible zero-emission vehicles.

Given that the Québec taxation system is, generally speaking, harmonized with the federal taxation system from the standpoint of measures pertaining to the accelerated investment incentive and to those respecting the depreciation of zero-emission vehicles, Québec tax legislation and regulation will be amended to incorporate, with adaptations based on their general principles, the amendments made in this respect to federal tax legislation and regulation.

Lastly, the amendments to the Québec taxation system will only be adopted following the assent given to any federal legislation or the adoption of any federal regulations giving effect to the measures retained, taking into account the technical amendments that may be made prior to the assent or the adoption. Additionally, they will be applicable on the same dates as those retained for the application of the federal legislative proposals with which they are being harmonized.

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24 Department of Finance Canada, "Department of Finance Canada Consulting on Draft Proposals to Improve Tax System," July 30, 2019, available at: https://www.canada.ca/en/department-finance/news/2019/07/department-of-finance-canada-consulting-on-draft-proposals-to-improve-tax-system.html.

25 Ministère des Finances du Québec, *Information Bulletin 2019-7*, June 14, 2019, pages 4-7.

26 S.C. 2019, c. 29.

7. HARMONIZATION WITH A FEDERAL MEASURE RESPECTING THE DEPRECIATION OF ZERO-EMISSION AUTOMOTIVE VEHICLES AND EQUIPMENT

On March 2, 2020, the Department of Finance Canada made public an information document in which it proposed granting a temporary enhanced capital cost allowance in respect of zero-emission automotive vehicles and equipment for the year in which they become available for use.[27] The zero-emission automotive vehicles and equipment targeted are those that do not already benefit from the temporary enhanced CCA rate of 100%, that is, that are not included in Class 54 or Class 55 of Schedule II of the *Income Tax Regulations.*

To be eligible for the enhanced capital cost allowance for the year in which the vehicle or equipment becomes available for use, the vehicle or equipment must be automotive (self-propelled) and fully electric or powered by hydrogen. Such a vehicle or equipment must also be acquired after March 1, 2020 and become available for use before 2028.

The enhanced capital cost allowance applicable for the year that the vehicle or equipment becomes available for use will be 100% when the vehicle or equipment becomes available for use before 2024. The rate will subsequently be gradually reduced. Accordingly, when the vehicle or equipment will become available for use in 2024 or 2025, the enhanced capital cost allowance for the year in which the vehicle or equipment becomes available for use will be 75%, and 55% when the vehicle or equipment becomes available for use in 2026 or 2027.

The capital cost allowance that will subsequently apply to the undepreciated capital cost of such vehicles or equipment will be 30% according to the declining balance basis.

The vehicles and equipment that satisfy the entire array of conditions applicable can be included in the new Class 56 of Schedule II of the *Income Tax Regulations.*

Given that the Québec taxation system is, in general, harmonized with the federal taxation system from the standpoint of measures pertaining to depreciation, Québec tax regulations will be amended to incorporate, with adaptations based on its general principles, the amendments to federal tax regulations concerning this temporary enhanced capital cost allowance measure for zero-emission automotive vehicles and equipment.

Moreover, the amendments to the Québec taxation system will only be adopted after the adoption of any federal regulation in the wake of the measure proposed, taking into account technical amendments that may be made prior to adoption. Additionally, they will be applicable on the same dates as those retained for the application of the amendments under the federal tax system with which they are being harmonized.

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27 Department of Finance Canada, "Business Investment in Zero-Emission Automotive Vehicles and Equipment," March 2, 2020, available at: https://www.canada.ca/en/department-finance/news/2020/03/business-investment-in-zero-emission-automotive-vehicles-and-equipment.html.