

**EASING OF THE TAX CREDIT FOR INVESTMENTS
AND HARMONIZATION WITH CERTAIN FEDERAL TAX MEASURES**

This information bulletin presents an amendment to the tax credit for investments relating to manufacturing and processing equipment.

It also presents the position of the Ministère des Finances du Québec on the Department of Finance Canada's news releases 19-104 and 19-112, published respectively on December 9 and 20, 2019.

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.

**EASING OF THE TAX CREDIT FOR INVESTMENTS AND HARMONIZATION
WITH CERTAIN FEDERAL TAX MEASURES**

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1. EASING OF THE TAX CREDIT FOR INVESTMENTS RELATING TO MANUFACTURING AND PROCESSING EQUIPMENT

Briefly, a qualified corporation, for a taxation year, that acquires qualified property may claim the tax credit for investments relating to manufacturing and processing equipment (hereafter, the “tax credit for investments”) in respect of its eligible expenses relating to the property, that is, the expenses it incurred to acquire such property that exceed \$12 500.¹

The base rate of the tax credit for investments is 4%. This rate can be increased up to 24% where the qualified property is acquired for use mainly in a remote zone.² It can reach 16% where the qualified property is acquired for use mainly in the eastern part of the Bas-Saint-Laurent administrative region,³ and 8% if it is acquired to be used mainly in an intermediate zone.⁴ A property acquired for use elsewhere in Québec does not allow a corporation to benefit from the tax credit for investments.

On August 15, 2018, as part of the publication of the Support Plan for Québec Businesses,⁵ temporary enhancements were announced to the tax credit for investments.

Briefly, in application of these temporary enhancements, a property acquired for use only in Québec elsewhere than in the remote zone, the eastern part of the Bas-Saint-Laurent administrative region or the intermediate zone could qualify as qualified property for the purposes of the tax credit for investments if it satisfied conditions otherwise stipulated. The base rate of the tax credit for investments was increased to 5%. The rates of the increase in the tax credit for investments have also been enhanced so that the rate of the tax credit may reach 40%, depending on where the property was acquired to be used mainly. Finally, an additional increase was granted for eligible expenses incurred by a qualified corporation in the metal processing sector.

These enhancements were applicable in respect of qualified property acquired after August 15, 2018 and before January 1, 2020. However, they did not apply in respect of a property:

- acquired in accordance with a written obligation contracted before August 16, 2018;
- whose construction by the corporation or on its behalf had started on August 15, 2018.

In addition, the expenses incurred to acquire the property had to be incurred after August 15, 2018 and before January 1, 2020.

¹ A qualified corporation, that is a member of a qualified partnership that acquires a qualified property, may claim the tax credit for investments in proportion to its share of the partnership’s income or loss. The easing of the tax credit for investments announced in this information bulletin will apply, with the necessary adaptations, when a qualified partnership acquires qualified property.

² Remote zones consist of the following administrative regions: Abitibi-Témiscamingue, Côte-Nord, Nord-du-Québec and Gaspésie-Îles-de-la-Madeleine.

³ The eastern portion of the Bas-Saint-Laurent administrative region consists of the following regional county municipalities (RCMs): La Matapédia, La Mitis and La Matanie.

⁴ Intermediate zones consist of the following administrative regions and RCMs: the Saguenay-Lac-Saint-Jean and the Mauricie administrative regions, and the Antoine-Labelle, Kamouraska, La Vallée-de-la-Gatineau, Les Basques, Pontiac, Rimouski-Neigette, Rivière-du-Loup and Témiscouata RCMs.

⁵ Ministère des Finances du Québec, *Information Bulletin 2018-7*, August 15, 2018, p. 3-11.

Under Québec civil law, the transfer of a real right in a certain and determinate property, or in several properties considered as a universality, vests the acquirer with the right upon the formation of the contract, even though the property is not delivered immediately and an operation may still remain necessary for the price to be determined. The transfer of a real right in a property determined only as to kind vests the acquirer with that right as soon as he is notified that the property is certain and determinate.⁶

For example, a property that has been the subject of an order may not be acquired until a few months later, when its construction is completed, and the purchaser has been notified that the property is certain and determinate.

However, the relatively short period during which the enhancements to the tax credit for investments announced in August 2018 applied could make it difficult for some types of property to qualify for these enhancements, particularly property that had been ordered. It is possible, for instance, that property having been the subject of a written obligation contracted after August 15, 2018 and before January 1, 2020 may not be acquired until after December 31, 2019. In such a case, the property would not allow the corporation acquiring it to benefit from the tax credit for investments or its enhancements even if expenses were incurred before January 1, 2020 for the acquisition of the property.

A change will therefore be made to the application date of the enhancements to the tax credit for investments announced on August 15, 2018, specifically with respect to the period within which the property must be acquired.

The tax legislation will therefore be amended so that the enhancements to the tax credit for investments announced in *Information Bulletin 2018-7* also apply in respect of eligible expenses incurred after August 15, 2018 and before January 1, 2020, for a qualified property acquired after December 31, 2019 and before January 1, 2021 if:

- the property is acquired in accordance with a written obligation contracted after August 15, 2018 and before January 1, 2020; or
- the construction of the property by the corporation or on its behalf started after August 15, 2018 and before January 1, 2020.

The other conditions for the application of the tax credit for investments and the enhancements announced in this regard in *Information Bulletin 2018-7* remain unchanged.

2. NEWS RELEASE 19-104 FROM THE DEPARTMENT OF FINANCE CANADA PUBLISHED ON DECEMBER 9, 2019

On December 9, 2019, the Department of Finance Canada published *News Release 19-104* in which it announced a gradual increase in the Basic Personal Amount (BPA) to \$15 000 by 2023.⁷

⁶ *Civil Code of Québec*, s. 1453.

⁷ Department of Finance Canada, *News Release 19-104*, "Government of Canada Moves Forward With Lower Taxes for the Middle Class and People Working Hard to Join It," December 9, 2019, <https://www.canada.ca/en/department-finance/news/2019/12/government-of-canada-moves-forward-with-lower-taxes-for-the-middle-class-and-people-working-hard-to-join-it.html>, (Accessed February 20, 2020).

The Department of Finance Canada also announced that it is proposing to increase, to \$15 000, by 2023, two related amounts, the Spouse or Common-Law Partner Amount and the Eligible Dependant Credit, in addition to the proposed increases in the BPA.

A Notice of Ways and Means Motion was published alongside *News Release 19-104* to introduce various consequential amendments to the *Income Tax Act* and the *Income Tax Regulations*.

The following table indicates whether each federal legislative or regulatory proposal is retained for incorporation into the Québec tax legislation or regulations.

The decision not to retain a legislative or regulatory proposal may be due to the proposal being out of step with the characteristics of the Québec tax system. In addition, this decision may also simply be due to the absence of an equivalent tax measure under the Québec tax system.

TABLE

Position of the Ministère des Finances du Québec on the proposals relating to amendments to the *Income Tax Act* and the *Income Tax Regulations* presented in the Notice of Ways and Means Motion made public on December 9, 2019

Clause ⁽¹⁾	Subject	Proposal retained ⁽²⁾	Proposal not retained ⁽²⁾
1	Childcare expense deduction – Definition of “eligible child”		63(3)
2	Preferred beneficiary	108(1) ⁽³⁾	
3	Annual adjustment		117.1(1)
4	Personal credits		118(1)a) 118(1)b) 118(1)c) 118(1.1)
5	RRSP – Restriction – Financially dependent	146(1.1) ⁽³⁾	
6	Person deemed resident in Canada		250(1)f)
7	<i>Income Tax Regulations</i> – RDSP Disability Assistance Payment — Withholding amount		RIR 103.1(2)

(1) This number corresponds to the clause number of the proposals presented in the Notice of Ways and Means Motion of the Department of Finance Canada.

(2) Unless otherwise indicated, the references correspond to sections, subsections or paragraphs of the *Income Tax Act* or the *Income Tax Regulations* that, in accordance with the proposals presented on December 9, 2019, should be amended or introduced into the federal tax legislation or regulations.

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

3. NEWS RELEASE 19-112 FROM THE DEPARTMENT OF FINANCE CANADA PUBLISHED ON DECEMBER 20, 2019

On December 20, 2019, the Department of Finance Canada published *News Release 19-112* regarding amateur athlete trusts.⁸

An amateur athlete is an individual who is a member of a registered Canadian amateur athletic association, eligible to compete in international sporting events as a Canadian national team member, and not a professional athlete. At present, amateur athletes can benefit from a deferral of tax on income, through the use of an arrangement known as an amateur athlete trust. This arrangement ensures that amounts held by an amateur athlete trust are included in the athlete's income within a reasonable period of time.

Where an athlete has not participated in an international sporting event as a member of a Canadian national team for a period of eight years, amounts held by the amateur athlete trust at the end of the eight-year period are deemed to have been distributed to the athlete at that time.

In *News Release 19-112* dated December 20, 2019, the Department of Finance Canada announced that when the eight-year period ends in 2019, it is being extended to nine years so that the period will end in 2020, and the deemed distribution of amounts held by the trust will occur at the end of the 2020 taxation year rather than at the end of the 2019 taxation year.

Considering that the provisions of the Québec tax system relating to amateur athlete trusts are harmonized with those of the federal tax system, the *Taxation Act* will be amended so that the same nine-year period applies to trusts for which the eight-year period ended in 2019. As a result, for the purposes of the Québec tax system, the maturity of an amateur athlete trust that was supposed to occur at the end of the 2019 taxation year will instead occur at the end of the 2020 taxation year, and the deemed distribution of the amounts held by the trust will also occur at the end of the 2020 taxation year rather than at the end of the 2019 taxation year.

⁸ Department of Finance Canada, *News Release 19-112*, "Government Supporting Canadian Athletes With Greater Flexibility for Amateur Athlete Trusts," December 20, 2019, <https://www.canada.ca/en/department-finance/news/2019/12/government-supporting-canadian-athletes-with-greater-flexibility-for-amateur-athlete-trusts.html>, (Accessed February 20, 2020).