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INFORMATION BULLETIN

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HARMONIZATION WITH VARIOUS MEASURES ANNOUNCED IN THE FEDERAL BUDGET OF MARCH 22, 2016

On March 22, 2016, the Minister of Finance of Canada presented the federal government's budget for 2016. At that time, he tabled, in the House of Commons, supplementary information describing in detail each of the tax measures proposed in the budget, notices of ways and means motions to amend federal tax legislation and regulations accordingly, and draft amendments to various GST/HST regulations.[1]

❑ Measures relating to income tax

Québec's tax legislation and regulations will be amended to incorporate certain income tax-related measures proposed in the 2016 federal budget. However, the changes to Québec's tax system will be adopted only following assent to any federal statute or adoption of any federal regulation giving effect to the measures retained, taking into account technical amendments that may be made prior to assent or adoption, as the case may be. More specifically, these changes will apply on the same dates as those retained for the purposes of the federal measures with which they harmonize.

■ Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the measures relating to:

1. the increase in the maximum residency deduction for certain northern residents (BR 10);[2]
2. the taxation of switch fund shares (BR 47);
3. sales of linked notes (BR 48 and BR 49);
4. emissions trading regimes (BR 50);
5. the change to the gross-up factor applicable to non-eligible dividends (BR 51);[3]
6. the multiplication of the small business deduction (BR 54);

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1 DEPARTMENT OF FINANCE CANADA, *Tax Measures: Supplementary Information*, March 22, 2016. [Budget 2016 companion paper].

2 The references in parentheses correspond to the number of the budget resolutions (BR) of the Notice of Ways and Means Motion to Amend the *Income Tax Act* and Other Tax Legislation tabled in the House of Commons on March 22, 2016.

3 More specifically, despite this change in the gross-up factor, the rate of the tax credit applicable to non-eligible dividends will remain unchanged for the purposes of the Québec tax system. For 2016, the rate will be 8.2485% of a non-eligible dividend, that is, 7.05% of a grossed-up non-eligible dividend.

7. avoidance of the business limit and taxable capital limit (BR 55);
8. distributions involving life insurance proceeds and transfers of life insurance policies (BR 56 to BR 59);[4]
9. debt-parking to avoid foreign exchange gains (BR 60);
10. the valuation for derivatives (BR 61 and BR 62);
11. eligible capital property (BR 63 to BR 72);
12. the addition of rules for back-to-back arrangements involving shareholder loans and multiple-intermediary structures to the shareholder loan rules (BR 76, in part[5]);
13. expanded tax support for clean energy.[6]

Measures not retained

Some measures have not been retained because they do not correspond to the features of Québec's tax system or because Québec's tax system is satisfactory or has no corresponding provisions. These measures relate to:

- the new Canada Child Benefit (BR 1 to BR 5);
- the elimination of the income splitting tax credit for families (BR 6 to BR 9);
- the restoration of the tax credit for the acquisition of shares of a labour-sponsored venture capital corporation (BR 11 to BR 14);
- the introduction of a refundable teacher and early childhood educator school supply tax credit (BR 15 to BR 18);
- the exemption from income of amounts received under the Ontario Electricity Support Program (BR 19);
- the mineral exploration tax credit for flow-through share investors (BR 20);
- the elimination of the education and textbook tax credits (BR 21 to BR 32);
- the phasing out of the refundable children's fitness tax credit and the children's arts tax credit (BR 33 to BR 38);
- the modification of the rate of the tax credit applicable to non-eligible dividends (BR 52);
- the small business tax rate (BR 53);

4 Certain proposed amendments to the federal tax legislation do not, however, require amendments to Québec's tax legislation. This is true of the changes to the definition of "capital dividend account" and the definition of "paid-up capital."

5 The proposed amendments relating to Part XIII of the *Income Tax Act* are not retained.

6 See note 1, pp. 21-24.

— cross-border surplus stripping (BR 73 to BR 75);

— the extension of the back-to-back rules relating to Part XIII of the *Income Tax Act* (BR 76, in part).

With regard to the consequential amendments intended to take into account the new marginal personal income tax rate of 33% (BR 39 to BR 46), the only amendments retained are those made to the definition of "relevant tax factor" in subsection 95(1) of the *Income Tax Act* (BR 39) and to the rules for determining the amount that an amateur athlete trust is deemed to have distributed in accordance with subsection 143.1(3) or (4) of the *Income Tax Act* (BR 44).

❑ Measures relating to the goods and services tax and harmonized sales tax

In accordance with the principle of general harmonization of the Québec sales tax (QST) system with the goods and services tax and harmonized sales tax (GST/HST) system, the Québec tax system will be changed to incorporate, with adaptations on the basis of its general principles and taking into account the provincial context underpinning the QST, the federal measures relating to:

— exported call centre services (BR 4);[7]

— donations to charities (BR 5);

— *de minimis* financial institutions (BR 6);

— cross-border reinsurance (BR 7 and BR 8);

— closely related test (BR 9 to BR 12 and measures proposed in this respect in the Draft Amendments to Various GST/HST Regulations);

— eligible capital property (BR 13 and measures proposed in this respect in the Draft Amendments to Various GST/HST Regulations).

However, the changes to the QST system will be adopted only following assent to any federal statute or adoption of any federal regulation implementing these GST/HST measures, taking into account technical amendments that may be made prior to assent or adoption, as the case may be. They will apply on the same dates as those retained for the purposes of the federal measures with which they harmonize, except for the measures relating to cross-border reinsurance, which will apply in respect of any specified year of a financial institution that ends after December 31, 2012.

Moreover, it should be recalled that it was previously announced, in *Information Bulletin 2016-2* of March 22, 2016, that the QST system will be harmonized with certain changes to the GST/HST system proposed in the federal budget tabled March 22, 2016. These harmonization decisions concern the federal health measures pertaining to medical and assistive devices (BR 2 and BR 3) and purely cosmetic procedures (BR 1).

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7 The references in parentheses correspond to the number of the budget resolutions (BR) of the Notice of Ways and Means Motion to Amend the *Excise Tax Act* tabled in the House of Commons on March 22, 2016.

❑ Withdrawal of a measure previously retained

On June 18, 2015, the Ministère des Finances du Québec announced that Québec's tax legislation would be amended to incorporate the federal measure proposed in Economic Action Plan 2015 with a view to exempting from tax a capital gain realized on the sale of private corporation shares or real estate after December 31, 2016, where the proceeds of the sale are given to a qualified donee.[8]

Given that, in its budget of March 22, 2016, the federal government announced its intention not to implement this mesure,[9] it will not be incorporated into Québec's tax legislation.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal 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.

8 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2015-4*, June 18, 2015, p. 4.

9 See note 1, p. 68.