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BUDGET

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2021

# YOUR FUTURE YOUR BUDGET

ADDITIONAL

INFORMATION



Budget 2020-2021  
Additional Information

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# 1. MEASURES CONCERNING BUSINESSES

## 1.1 Introduction of the tax credit for investments and innovation

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 (hereinafter, the “tax credit for investments”) in respect of its eligible expenses relating to the property, that is, the portion of the expenses that it incurred to acquire the property in excess of \$12 500.<sup>1</sup>

The base rate of the tax credit for investments is 4%. This rate can be increased up to 24% if the qualified property is acquired to be used mainly in a remote zone.<sup>2</sup> It can be increased up to 16% if the qualified property is acquired to be used mainly in the eastern part of the Bas-Saint-Laurent administrative region<sup>3</sup> and 8% if it is acquired to be used mainly in an intermediate zone.<sup>4</sup> Property acquired to be used mainly elsewhere in Québec does not give entitlement to the tax credit for investments.

The tax credit for investments to which a qualified corporation is entitled for a taxation year may be deducted from its total taxes for the taxation year. The portion of the tax credit relating to a taxation year that cannot be used to reduce its total taxes for the taxation year may be refunded, in whole or in part, or carried over.

A qualified corporation may benefit fully from a higher rate and the refundability of the tax credit, for a taxation year, if its paid-up capital for the taxation year does not exceed \$250 million. The increase in the rate of the tax credit and the refundable portion of the tax credit decrease linearly between \$250 million and \$500 million in paid-up capital. A corporation whose paid-up capital reaches \$500 million may receive only the base rate of 4%, and no part of the tax credit is refundable. Also, a qualified corporation may benefit from a higher rate and the refundability of the tax credit for investments, for a taxation year, only in respect of the eligible expenses it incurred that do not exceed a cumulative limit of \$75 million.

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<sup>1</sup> A qualified corporation that is a member of a qualified partnership that acquires qualified property may claim the tax credit for investments in proportion to its share of the partnership's income or loss.

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

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

<sup>4</sup> 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.

A qualified property, for the purposes of the tax credit for investments, is a property included in Class 53 of Schedule B to the *Regulation respecting the Taxation Act*, a property included in Class 43 of that Schedule or a property included in Class 50 of that Schedule that is used mainly in the manufacturing or processing of goods intended for sale or lease, or a property acquired for use mainly in activities involving the smelting, refining or hydrometallurgy of ore, other than ore from a gold or silver mine, extracted from a mineral resource located in Canada. It must, among other things, be new at the time of its acquisition and have been acquired before January 1, 2023.

To further encourage productivity gains of businesses in various sectors of activity and in all regions of Québec, while more particularly promoting investments in regions where the economic vitality index is low, a new tax credit will be introduced, the tax credit for investments and innovation.

Briefly, the tax credit for investments and innovation will be granted to a qualified corporation that acquires, after the day of the budget speech and before 2025, manufacturing or processing equipment, computer equipment or certain management software packages. It will be calculated on the portion of the expenses incurred to acquire the property in excess of \$5 000 or \$12 500, depending on the property. The applicable tax credit rate, in respect of a particular property, may reach up to 20% and will be determined based on the economic vitality index of the region where the property will be acquired to be used mainly. The tax credit for investments and innovation to which a qualified corporation will be entitled, for a taxation year, may be refundable, in whole or in part, or non-refundable. The non-refundable portion of the tax credit of a taxation year may be carried over to another taxation year. The refundable portion of the tax credit will be determined based on the qualified corporation's assets and gross income.

The expenses in respect of which a qualified corporation may claim the tax credit for investments and innovation may not, however, exceed a cumulative limit of \$100 million.

A qualified corporation that is a member of a qualified partnership may, on certain conditions, receive the tax credit for investments and innovation in respect of its share of the specified expenses incurred by the partnership for the acquisition of a specified property.

The tax credit for investments and innovation will replace the tax credit for investments. A corporation may nevertheless, on certain conditions, elect to receive the tax credit for investments according to its current terms and conditions.

## **☐ Qualified corporation**

The tax legislation will be amended so that the expression “qualified corporation,” for a taxation year, for the purposes of the tax credit for investments and innovation, means a corporation other than an excluded corporation for the year that, in the year, carries on a business in Québec and has an establishment in Québec.



## ■ Excluded corporation

An excluded corporation, for a taxation year, will mean a corporation that is, for the taxation year, one of the following corporations:

- a corporation that is exempt from tax;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation;
- an aluminum producing corporation;
- an oil refining corporation.

An aluminum producing corporation, for a taxation year, will mean a corporation that, at any time in the year subsequent to the day of the budget speech, either carries on an aluminum producing business or owns or leases property used in the carrying on of such a business by another corporation, partnership or trust that is a member of the associated group of which the corporation is a member.<sup>5</sup>

An oil refining corporation, for a taxation year, will mean a corporation that, at any time in the year subsequent to the day of the budget speech, either carries on an oil refining business or owns or leases property used in the carrying on of such a business by another corporation, partnership or trust that is a member of the associated group of which the corporation is a member.

## □ Qualified partnership

The tax legislation will be amended so that the expression “qualified partnership,” for a fiscal period, for the purposes of the tax credit for investments and innovation, means a partnership, other than a partnership that is excluded for the fiscal period, that, in the fiscal period, carries on a business in Québec and has an establishment in Québec.

## ■ Excluded partnership

An excluded partnership, for a fiscal period, will mean a partnership that, at any time in the fiscal period subsequent to the day of the budget speech:

- carries on an aluminum producing business; or
- carries on an oil refining business.

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<sup>5</sup> For greater clarity, an associated group, for a taxation year or fiscal period, will mean all the corporations, partnerships and trusts that are associated with one another at any time in the year or period, as applicable, and the presumptions of section 1029.6.0.1.7 of the *Taxation Act* will apply to determine whether corporations, partnerships or trusts are associated.

## ❑ Calculation of the tax credit for investments and innovation

The tax legislation will be amended so that a qualified corporation will be able, for a taxation year, to claim, for that taxation year, in respect of a specified property, a tax credit equal to the product obtained by multiplying, by the rate of the tax credit for investments and innovation applicable in respect of the property, the amount by which the corporation's specified expenses relating to the property, for the taxation year, exceed the excluded expenses in respect of the property, for that year.

Likewise, a qualified corporation, for a taxation year, that is a member of a qualified partnership at the end of a fiscal period of the partnership that ends in the taxation year will be able to claim, for that taxation year, in respect of a specified property of the partnership, a tax credit equal to the product obtained by multiplying, by the rate of the tax credit for investments and innovation applicable in respect of the property, the amount by which the corporation's share of the partnership's specified expenses relating to the property, for the fiscal period, exceed the excluded expenses in respect of the property for that fiscal period.

In this respect, a corporation's share of the amount by which the specified expenses relating to a property of a partnership of which it is a member exceed the excluded expenses in respect of the property, for a fiscal period, will be equal to the agreed proportion, in respect of the corporation for that fiscal period, of the excess amount.<sup>6</sup>

## ❑ Specified property

A specified property of a corporation or partnership for the purposes of the tax credit for investments and innovation will mean a property that meets all the following conditions:

- it is one of the following properties:
  - manufacturing and processing equipment, that is, a property in Class 53 of Schedule B to the *Regulation respecting the Taxation Act*,<sup>7</sup>
  - general-purpose electronic data processing equipment and the systems software for that equipment, that is, a property in Class 50 of that Schedule,
  - a property used mainly in the course of processing ore extracted from a mineral resource located in a country other than Canada, that is, a property in Class 43 of that Schedule,
  - a qualified management software package,

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<sup>6</sup> *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.

<sup>7</sup> For greater clarity, to determine whether a property is included in any of these classes, the rule respecting a property that has not become available for use will not apply (*Taxation Act*, s. 93.6).

- a property used mainly in activities involving the smelting, refining or hydrometallurgy of ore, other than ore from a gold or silver mine, extracted from a mineral resource located in Canada;<sup>8</sup>
- it begins to be used within a reasonable time after its acquisition;<sup>9</sup>
- it is not acquired to be used and is not used in the course of carrying on a recognized business of the corporation or partnership relating to a large investment project;<sup>10</sup>
- it is not used in the course of operating an ethanol, biodiesel or pyrolysis oil production plant;
- it was not used, before its acquisition, for any purpose or acquired to be used or leased for any purpose whatsoever.

Also, except in the case of loss, major breakdown or involuntary destruction by fire, theft or water, the specified property, except for a management software package, must be used only in Québec and mainly in the course of carrying on a business for a period of at least 730 consecutive days after its began to be used by the qualified corporation or qualified partnership, as applicable, or by a person with which the corporation or partnership is not dealing at arm's length and that acquired the property in circumstances in which a transfer, amalgamation or winding-up occurred.<sup>11</sup>

Where the specified property is a qualified management software package, it must be used mainly in Québec in the course of carrying on a business for a period of at least 730 consecutive days after it began to be used by the qualified corporation or qualified partnership, as applicable, or by a person with which the corporation or partnership is not dealing at arm's length and that acquired the property in circumstances in which a transfer, amalgamation or winding-up occurred, except in the case of loss, major breakdown or involuntary destruction by fire, theft or water, or due to its obsolescence.

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<sup>8</sup> This property is described in subparagraph ii of paragraph a.1 of the definition of the expression “qualified property” in the first paragraph of section 1029.8.36.166.40 of the *Taxation Act* (definition applicable to the tax credit for investments).

<sup>9</sup> A qualified corporation or qualified partnership that will be deemed to have acquired a property that it leases and in respect of which it has made the joint election to that effect with the lessor will also, provided the other conditions otherwise applicable are met, be able to claim the tax credit for investments and innovation in respect of the property. Rules analogous to those of section 1029.8.36.166.51 of the *Taxation Act* will apply.

<sup>10</sup> *Taxation Act*, s. 737.18.17.1.

<sup>11</sup> These are the circumstances described in section 130R149 of the *Regulation respecting the Taxation Act*.

## ■ **Qualified management software package**

A qualified management software package of a corporation or partnership will mean a property included in Class 12 of Schedule B of the *Regulation respecting the Taxation Act*, pursuant to subparagraph o of its first paragraph, that is a management software package mainly enabling management of one or more of the following elements:

- all the operational processes of the business of the corporation or partnership, as applicable, by integrating all the functions of the business;
- the interactions of the business of the corporation or partnership with its clients through multiple and interconnected communication channels;
- a network of businesses of the corporation or partnership involved in the production of a product or the provision of a service required by the end client to cover all movements of materials or information, from the point of origin to the point of consumption.

## □ **Specified expenses**

The specified expenses of a qualified corporation relating to a specified property, for a taxation year, will mean the expenses that are incurred by the corporation in the taxation year for the acquisition of the specified property and that are included in the capital cost of the property.

The specified expenses of a qualified partnership relating to a specified property, for a fiscal period, will mean the expenses that are incurred by the partnership in the fiscal period for the acquisition of the specified property and that are included in the capital cost of the property.

However, the total of the specified expenses of a qualified corporation, for a taxation year, and its share of the specified expenses of a qualified partnership, for a fiscal period ended in the taxation year, may not exceed the balance of the cumulative limit on the corporation's specified expenses for that taxation year.

Likewise, the total of the specified expenses of a partnership, for a fiscal period, may not exceed the balance of the cumulative limit on the partnership's specified expenses for the fiscal period.

Furthermore, for the purposes of the tax credit for investments, certain expenses incurred for the acquisition of a qualified property are not eligible expenses. This is the case, in particular, of expenses incurred in respect of a person with which the corporation or partnership is not dealing at arm's length and the borrowing costs that a corporation or partnership elects to capitalize. These exclusions will also apply for the calculation of specified expenses.

The amount of the specified expenses must be reduced by the portion of the expenses that are also qualified expenses for the purposes of the refundable tax credit relating to information technology integration. Also, the amount of any government assistance, any non-government assistance and any profit or benefit attributable to specified expenses must be subtracted from the amount of those expenses, according to the usual rules. However, an amount received on account of the tax credit for investments under the federal tax system will not be government assistance for the purposes of the tax credit for investments and innovation.

### ■ **Balance of the cumulative limit on specified expenses**

The balance of the cumulative limit on a qualified corporation's specified expenses, for a particular taxation year, will be equal to the amount by which \$100 million exceeds the total of the following amounts:

- the qualified corporation's specified expenses and, if the corporation is a member of an associated group, the specified expenses of another corporation that is a member of the associated group, in respect of which the tax credit for investments and innovation could be claimed for a taxation ended in the 48-month period preceding the beginning of the particular year;
- the share of a qualified partnership's specified expenses of in respect of which the qualified corporation or, if the qualified corporation is a member of an associated group, another corporation that is a member of the associated group could claim the tax credit for investments and innovation for a taxation ended in the 48-month period preceding the beginning of the particular year;
- the qualified corporation's eligible expenses and the share of the eligible expenses of a qualified partnership of which the corporation is a member, in respect of which the corporation can benefit, for the particular year, or could benefit, for a taxation year ended in the 48-month period preceding the beginning of the particular year, from a higher rate or from the refundability of the tax credit for investments;
- if the corporation is a member of an associated group, the eligible expenses of another corporation that is a member of the associated group and the share of the eligible expenses of a qualified partnership of which the other corporation is a member, in respect of which the other corporation can benefit, for a taxation year ended in the particular year or at the same time as the particular year, or could benefit, for a taxation year ended in the 48-month period preceding the beginning of the particular year, from a higher rate or from the refundability of the tax credit for investments.

Where a qualified corporation is a member of an associated group, in a taxation year, the balance of the cumulative limit on specified expenses must be the subject of a sharing agreement between the members of the associated group, according to the usual rules.

The balance of the cumulative limit on a qualified partnership's specified expenses, for a particular fiscal period, will be equal to the amount by which \$100 million exceeds the total of the following amounts:

- the specified expenses of the partnership incurred in a fiscal period ended in the 48-month period preceding the beginning of the particular fiscal period in respect of which a qualified corporation that is a member of the partnership could claim the tax credit for investments and innovation;
- the eligible expenses incurred by the partnership in the particular fiscal period or in a fiscal period ended in the 48-month period preceding the beginning of the particular fiscal period in respect of which a qualified corporation that is a member of the partnership can benefit or could benefit from a higher rate or from the refundability of the tax credit for investments.

Where a specified property is acquired in a joint venture, the aggregate of the specified expenses relating to the property acquired in that joint venture will also be subject to a cumulative limit of \$100 million. The balance of the cumulative limit on specified expenses of a joint venture will be calculated as if the joint venture were a partnership whose fiscal period ends on December 31.

The reduction of the balance of the cumulative limit on specified expenses will be calculated as if the amount of the excluded expenses in respect of a specified property and the amount of the excluded expenses in respect of a qualified property, for the purposes of the tax credit for investments, corresponded to zero.

## **❏ Excluded expenses**

The amount of the excluded expenses in respect of a specified property of a qualified corporation, for a taxation year, or of a qualified partnership, for a fiscal period, as applicable, will be equal to the lesser of the following amounts:

- the amount corresponding to the specified expenses of the corporation or partnership in respect of the property for the taxation year or fiscal period, as applicable;
- an amount equal to the amount by which the exclusion threshold for the specified property exceeds the total of the excluded expense amount in respect of the property of the corporation, for each prior taxation year, or of the partnership, for each prior fiscal period.

## **■ Exclusion threshold**

The exclusion threshold for specified property will be equal to the following amount:

- in respect of a specified property that is a property in Class 50 of Schedule B to the *Regulation respecting the Taxation Act* or a qualified management software package: \$5 000;
- in respect of another specified property: \$12 500.

## **❑ Rate of the tax credit**

The tax credit rate applicable to a qualified corporation in respect of a specified property will be established based on the region where the property is acquired to be used mainly and will be equal to the following applicable rate:

- if the property is acquired to be used mainly in the low economic vitality zone: 20%;
- if the property is acquired to be used mainly in the intermediate zone: 15%;
- if the property is acquired to be used mainly in the high economic vitality zone: 10%.

Where a specified property that is a management software package is acquired by a qualified corporation to be used in two or more establishments of the corporation and it cannot be determined where the property is acquired to be used mainly, that specified property will then be deemed acquired to be used mainly in the low economic vitality zone if, for the first taxation year in which specified expenses were incurred for the acquisition of the property, the proportion that the aggregate of the salaries or wages<sup>12</sup> paid by the corporation to its employees who report for work at an establishment of the corporation located in a low economic vitality zone is of the aggregate of the salaries or wages paid to its employees who report for work at an establishment of the corporation located in Québec exceeds 50%.

Otherwise, it will be deemed to have been acquired to be used mainly in the intermediate zone if, for the first taxation year in which specified expenses are incurred for the acquisition of the property, the proportion that the aggregate of the salaries or wages paid by the corporation to its employees who report for work at an establishment of the corporation located in the intermediate zone or in the low economic vitality zone is of the aggregate of the salaries or wages paid to its employees who report for work at an establishment of the corporation located in Québec exceeds 50%.

Failing that, it will be deemed to have been acquired to be used mainly in the high economic vitality zone.

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<sup>12</sup> *Taxation Act*, s. 1.

The rules applicable to determine whether an employee reports for work at an establishment of the employer located in Québec, where the employee reports for work at more than one establishment of the employer, will apply to determine whether the employee reports for work at an establishment of the employer located in a low economic vitality zone or in the intermediate zone, with the necessary adaptations.<sup>13</sup> However, an employee who reports for work at an establishment of the employer located in the intermediate zone and at such an establishment located in the low economic vitality zone will be deemed to report for work at an establishment of the employer located in the intermediate zone if the employee does not report for work mainly at one or more establishments of the employer located outside the intermediate zone or the low economic vitality zone and is not deemed to report for work at an establishment of the employer located in the low economic vitality zone.

These rules will apply, with the necessary adaptations, to a specified property that is a management software package acquired by a qualified partnership to be used, in a fiscal period, in two or more establishments of the partnership.

### ■ Low economic vitality zone

The low economic vitality zone will consist of the regional county municipalities (RCMs) and urban agglomerations listed in the table below.

TABLE A.1

#### **Low economic vitality zone**

Antoine-Labelle	La Vallée-de-la-Gatineau
Argenteuil	Le Golfe-du-Saint-Laurent
Avignon	Le Rocher-Percé
Bonaventure	Les Appalaches
Charlevoix-Est	Les Basques
Communauté maritime des Îles-de-la-Madeleine	Les Etchemins
La Côte-de-Gaspé	Les Sources
La Haute-Côte-Nord	Maria-Chapdelaine
La Haute-Gaspésie	Matawinie
La Matanie	Mékinac
La Matapédia	Pontiac
La Mitis	Shawinigan
La Tuque	Témiscouata

<sup>13</sup> For example, an employee who reports for work at both an establishment of the employer located in Québec and an establishment of the employer located outside Québec is deemed to report for work at the establishment of the employer situated in Québec where the employee does not report for work mainly at an establishment of the employer located outside Québec.



## ■ Intermediate zone

The intermediate zone will consist of the territories located in Québec outside the low economic vitality zone and the high economic vitality zone.

## ■ High economic vitality zone

The high economic vitality zone will consist of the municipalities whose territories constitute the Communauté métropolitaine de Montréal<sup>14</sup> and the Communauté métropolitaine de Québec<sup>15</sup> listed in the tables below.

TABLE A.2

### **Municipalities of the Communauté métropolitaine de Montréal**

Baie-D'Urfé	Hampstead	Mont-Saint-Hilaire	Saint-Mathias-sur-Richelieu
Beaconsfield	Hudson	Notre-Dame-de-l'Île-Perrot	Saint-Mathieu
Beauharnois	Kirkland	Oka	Saint-Mathieu-de-Belœil
Belœil	La Prairie	Otterburn Park	Saint-Philippe
Blainville	L'Assomption	Pincourt	Saint-Sulpice
Boisbriand	Laval	Pointe-Calumet	Sainte-Anne-de-Bellevue
Bois-des-Filion	Léry	Pointe-Claire	Sainte-Anne-des-Prairies
Boucherville	Les Cèdres	Pointe-des-Cascades	Sainte-Catherine
Brossard	L'Île-Cadieux	Repentigny	Sainte-Julie
Calixa-Lavallée	L'Île-Dorval	Richelieu	Sainte-Marthe-sur-le-Lac
Candiac	L'Île-Perrot	Rosemère	Sainte-Thérèse
Carignan	Longueuil	Saint-Amable	Senneville
Chambly	Lorraine	Saint-Basile-le-Grand	Terrasse-Vaudreuil
Charlemagne	Mascouche	Saint-Bruno-de-Montarville	Terrebonne
Châteauguay	McMasterville	Saint-Constant	Varenes
Contrecoeur	Mercier	Saint-Eustache	Vaudreuil-Dorion
Côte-Saint-Luc	Mirabel	Saint-Isidore	Vaudreuil-sur-le-Lac
Delson	Montréal	Saint-Jean-Baptiste	Verchères
Deux-Montagnes	Montréal-Est	Saint-Joseph-du-Lac	Westmount
Dollard-Des Ormeaux	Montréal-Ouest	Saint-Lambert	
Dorval	Mont-Royal	Saint-Lazare	

<sup>14</sup> *Act respecting the Communauté métropolitaine de Montréal* (CQLR, c. C-7.01), s. 2 and Schedule I.

<sup>15</sup> *Act respecting the Communauté métropolitaine de Québec* (CQLR, c. C-37.02), s. 2 and Schedule A.

TABLE A.3

**Municipalities of the Communauté métropolitaine de Québec**

Beaupré	Saint-Gabriel-de-Valcartier
Boischatel	Saint-Jean-de-l'Île-d'Orléans
Château-Richer	Saint-Joachim
Fossambault-sur-le-Lac	Saint-Laurent-de-l'Île-d'Orléans
Lac-Beauport	Saint-Louis-de-Gonzague-du-Cap-Tourmente
Lac-Delage	Saint-Pierre-de-l'Île-d'Orléans
Lac-Saint-Joseph	Saint-Tite-des-Caps
L'Ancienne-Lorette	Sainte-Anne-de-Beaupré
L'Ange-Gardien	Sainte-Brigitte-de-Laval
Lévis	Sainte-Catherine-de-la-Jacques-Cartier
Québec	Sainte-Famille-de-l'Île-d'Orléans
Saint-Augustin-de-Desmaures	Sainte-Pétronille
Saint-Ferréol-les-Neiges	Shannon
Saint-François-de-l'Île-d'Orléans	Stoneham-et-Tewkesbury

## ❑ Refundability of the tax credit

The tax credit for investments and innovation to which a qualified corporation will be entitled, for a taxation year, may be deducted from its total taxes for the taxation year.

The portion of the tax credit for investments and innovation of a taxation year that cannot be used to reduce the corporation's total taxes for the year may be refunded, in whole or in part, or carried back to the preceding three taxation years or forward to the subsequent 20 taxation years.<sup>16</sup> The non-refundable portion of the tax credit for investments and innovation of a qualified corporation may not, however, be carried to a taxation year ended on or before the day of the budget speech.

For a qualified corporation to be able to benefit fully from the refundability of the tax credit for investments and innovation for a particular taxation year, its assets and its gross income, applicable for the taxation year, must not exceed \$50 million.

A qualified corporation will not be able to benefit from the refundability of the tax credit for investments and innovation if its assets and its gross income, applicable for the taxation year, is equal to or exceeds \$100 million.

<sup>16</sup> In the case of acquisition of control of a corporation, certain tax balances of the corporation attributable to the taxation year preceding the acquisition of control may not be used in a taxation year that ends after the acquisition of control and vice versa, subject to certain exceptions (see, for example, sections 1029.8.36.166.49 and 1029.8.36.166.50 of the *Taxation Act*). These rules will apply in respect of the unused portion of the tax credit for investments and innovation of a qualified corporation of which control is acquired.

A qualified corporation whose assets and gross income, applicable for the taxation year, exceeds \$50 million but does not exceed \$100 million will benefit from the refundability of the tax credit for investments and innovation in the proportion established by the following formula:

$$\text{Refundability rate of the tax credit for a taxation year} = 1 - \frac{\text{Assets or gross income applicable for the year, whichever is higher} - \$50 \text{ million}}{\$50 \text{ million}}$$

For example, the refundable portion of the tax credit for investments and innovation of a qualified corporation, for a taxation year, if it is not a member of an associated group and its assets applicable for the year are \$49 million and its gross income applicable for the year is \$85 million, will be 30%.

## ■ Total taxes

The total taxes of a qualified corporation, for a taxation year, will correspond to the amount by which the total of income tax, compensation tax on financial institutions, tax on capital of insurance corporations and tax on capital of life insurers exceeds the portion of a non-refundable tax credit that the corporation has deducted from its tax payable for the year and before taking into account the refundable tax credits the corporation may claim for the year.

## ■ Assets of the corporation

The assets of a corporation applicable for a particular taxation year will mean the amount of its assets presented in its financial statements submitted to shareholders for its taxation year preceding the particular year or, if the corporation is in its first fiscal period, at the beginning of that fiscal period.

Where the qualified corporation is a member of an associated group, for the taxation year, its assets applicable for that taxation year, for determining the refundability of the tax credit for investments and innovation, will be determined based on the assets of the other members of the associated group.<sup>17</sup>

## ■ Gross income of the corporation

The gross income of a corporation applicable for a particular taxation year will mean its gross income for the taxation year preceding the particular year.

Where a qualified corporation is a member of an associated group, for a taxation year, its gross income applicable for that taxation year will correspond to the amount that would be the gross income of the associated group, in respect of the preceding taxation year, calculated based on the consolidated statement of the results of the members of the associated group for the preceding taxation year, as if each member of the group had an establishment in Québec.

<sup>17</sup> The assets of a corporation will be calculated according to rules analogous to the rules provided for the purposes of the tax credit for design (*Taxation Act*, ss. 1029.8.36.10 to 1029.8.36.15).

The consolidated statement of the results of the members of an associated group, for the preceding taxation year, will be established based on the statement of the results of the corporation for that preceding taxation year and the statement of the results of each of the other members of the associated group for its taxation year or fiscal period ended in that preceding taxation year.

### **❑ Election to claim the tax credit for investments**

Where a property meets all the conditions to qualify as a “specified property,” for the purposes of the tax credit for investments and innovation, such a property will not be a “qualified property” for the purposes of the tax credit for investments.

However, a qualified corporation that acquires a property meeting all the conditions to qualify as a “qualified property” for the purposes of the tax credit for investments and as a “specified property” for the purposes of the tax credit for investments and innovation will be able to elect, for the first taxation year during which it incurs expenses for the acquisition of the property, for the property to be a “qualified property.” Consequently, the property will not be a “specified property” for the purposes of the tax credit for investments and innovation.

However, such an election may not be made, for a taxation year, if the corporation has claimed, in respect of the specified expenses it incurred in the taxation year or in a prior taxation year, an amount on account of the tax credit for investments and innovation.

Likewise, if the qualified corporation is a member of an associated group, in a taxation year ended at a particular time, the election may not be made, for that taxation year, if a corporation that is a member of the associated group or a corporation that is a member of a partnership that is a member of the associated group claimed an amount on account of the tax credit for investments and innovation in respect of the specified expenses incurred in a taxation year or fiscal period, as applicable, ended at or before that time.

These rules will apply, with the necessary adaptations, to a property acquired by a qualified partnership.

### **❑ Other terms and conditions**

The specified expenses in respect of which the tax credit for investments and innovation is claimed must have been paid at the time the application for the tax credit is filed. Where the specified expenses are paid more than 18 months following the end of the taxation year or fiscal period, as applicable, in which they were incurred, those specified expenses will then be specified expenses of the qualified corporation for the taxation year or of the qualified partnership for the fiscal period, as applicable, in which they were paid.

The tax credit for investments and innovation attributable to a specified property, other than a management software package, acquired by a qualified corporation or qualified partnership, as applicable, will be recovered by means of a special tax, according to the usual rules, where the specified property ceases, during the period of at least 730 consecutive days after it began to be used, otherwise than because of its loss, involuntary destruction by fire, theft or water, or major breakdown, to be used only in Québec in the carrying on of a business by the qualified corporation or qualified partnership or by a person with which the corporation or partnership is not dealing at arm's length and that acquired the property in circumstances in which a transfer, amalgamation or winding-up occurred.<sup>18</sup>

The tax credit for investments and innovation attributable to a qualified management software package acquired by a qualified corporation or qualified partnership, as applicable, will be recovered by means of a special tax, according to the usual rules, where the specified property ceases, during the period of at least 730 consecutive days after it began to be used, otherwise than because of its loss, involuntary destruction by fire, theft or water, or major breakdown or due to its obsolescence, to be used mainly in Québec in the carrying on of a business by the qualified corporation or qualified partnership or by a person with which the corporation or partnership is not dealing at arm's length and that acquired the property in circumstances in which a transfer, amalgamation or winding-up occurred.<sup>19</sup>

Where a portion of the tax credit for investments and innovation in respect of the specified property was not applied against the total taxes of the corporation, for a prior taxation year, the balance of the tax credit carried over will be subtracted and the tax credit will then be recovered by means of the special tax.

Finally, the tax legislation will be amended so that the person that makes the supply of a qualified management software package to a qualified corporation or qualified partnership may nevertheless claim the refundable tax credit for the development of e-business and the non-refundable tax credit for the development of e-business to the extent that the conditions applicable to those tax credits are met, notwithstanding the fact that the qualified corporation or a qualified corporation that is a member of the qualified partnership can claim the tax credit for investments and innovation in respect of that management software package.

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<sup>18</sup> See note 11.

<sup>19</sup> Ibid.

## ❑ Application date

The tax credit for investments and innovation will apply in respect of the specified expenses incurred after the day of the budget speech, but before January 1, 2025, for the acquisition of a specified property after the day of the budget speech, but before January 1, 2025.

However, the qualified property must not be:

- a property acquired in accordance with a written obligation contracted on or before the day of the budget speech;
- a property whose construction by or on behalf of the corporation had started the day of the budget speech.

## 1.2 Extension of the time limit for submitting an application for the initial qualification certificate for the tax holiday for large investments projects

In the 2013-2014 budget speech,<sup>20</sup> a tax holiday for large investment projects was announced.

Briefly, a corporation that carries out a large investment project in Québec may, under certain conditions, claim a tax holiday in respect of the income from its eligible activities relating to the project and a holiday from employer contributions to the Health Services Fund (HSF) regarding the portion of wages paid to its employees that is attributable to the time they devote to such activities.

Similarly, a partnership that carries out a large investment project in Québec may, under certain conditions, claim a holiday from HSF contributions regarding the portion of wages paid to its employees that is attributable to the time they devote to eligible activities relating to the project. A corporation that is a member of the partnership can claim a tax holiday in respect of its share of the income from eligible activities of the partnership relating to the project.

To qualify as a large investment project, a project must, among other things, pertain to activities in one of the following sectors: manufacturing, wholesale trade, warehousing, data processing, data hosting and related services, or development of digital platforms.

Also, realization of the project must meet a requirement to reach the capital investment threshold applicable to the project within the 60-month start-up period, starting on the date the initial qualification certificate is issued, and to maintain that threshold throughout the tax-free period.

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<sup>20</sup> MINISTÈRE DES FINANCES ET DE L'ÉCONOMIE DU QUÉBEC, *Budget 2013-2014 – Budget Plan*, November 20, 2012, pp. H.23-H.32.

The capital investment threshold that must be met for project qualification purposes is \$100 million<sup>21</sup> or \$50 million. In the latter case, all or substantially all of the investment project must be carried out in a designated region and all or substantially all of the activities stemming from the project must be carried out in such a region throughout the tax-free period.<sup>22</sup>

This tax holiday lasts a maximum of 15 years. The tax assistance relating to a large investment project may not exceed 15% of the total qualified capital investments relating to the project, determined on the date that the tax-free period begins.

To claim the tax holiday, a corporation or partnership must obtain an initial qualification certificate and annual certificates issued by the Minister of Finance. An application for an initial certificate must be made before the investment project begins to be carried out and before December 31, 2020.

A corporation or partnership that obtained an initial qualification certificate in respect of a large investment project may, under certain conditions, request that the Minister of Finance amend the certificate so that a second investment project that builds on the first project is added, provided it otherwise complies with the terms and conditions of the tax holiday.

An application for amendment of an initial qualification certificate must be filed with the Minister of Finance before the second investment project begins to be carried out, no later than December 31, 2020 and no later than the date the application for the first annual certificate is made for the first investment project.

To enable more investment projects to qualify for the tax holiday for large investment projects, the time limit for submitting an application for an initial qualification certificate or for amending the initial qualification certificate will be extended by four years.

Thus, the *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter, the “sectoral act”) will be amended so that, to claim the tax holiday for a large investment project, a corporation or partnership will be required to file an application for an initial certificate with the Minister of Finance in writing before its large investment project begins to be carried out and no later than December 31, 2024.

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<sup>21</sup> This \$100-million threshold applies from February 15, 2015.

<sup>22</sup> The \$50-million threshold applies from March 22, 2019 in respect of an investment project carried out in a designated region. The designated regions are the following administrative regions, regional county municipalities (RCMs) and urban agglomeration: the Abitibi-Témiscamingue, Bas-Saint-Laurent, Côte-Nord, Gaspésie–Îles-de-la-Madeleine, Nord-du-Québec and Saguenay–Lac-Saint-Jean administrative regions; the Le Granit, Le Haut-Saint-François, Mékinac, Pontiac, La Vallée-de-la-Gatineau, Antoine-Labelle and Charlevoix-Est RCMs; and the urban agglomeration of La Tuque.

Likewise, the sectoral act will be amended so that, to claim the tax holiday for a second investment project that builds on the first investment project, a corporation or partnership will be required to file the application for amending the initial qualification certificate to add the second investment project before the second large investment project begins to be carried out, no later than December 31, 2024 and no later than the date the application for the first annual certificate is made for the first investment project.

### **1.3 Introduction of an incentive deduction for the commercialization of innovations in Québec**

In recent decades, Québec has provided substantial support to corporations pursuing scientific research and experimental development activities (R&D). At the same time, considerable financial support has been channeled to corporations working in the information technology sector.

These efforts have generated substantial benefits for Québec in various areas, particularly with regard to the development of a skilled workforce. However, the progress achieved has not always translated into tangible investments in the commercialization of the results obtained from these activities carried out in Québec.

To encourage the competitiveness of Québec businesses while fostering the retention and valorization of intellectual properties developed in Québec, a new tax measure will be introduced.

This measure will take the form of a deduction in calculating the taxable income of a qualifying innovative corporation for a taxation year. The incentive deduction for the commercialization of innovations in Québec (hereinafter, the “IDCI”) will apply as of 2021.

This deduction will enable a corporation that commercializes a qualified intellectual property asset developed in Québec to benefit from an effective tax rate of 2% on the qualified portion of its taxable income attributable to that qualified intellectual property asset. Currently, the corporate income tax basic rate is 11.5% in Québec.

#### **☐ Qualified innovative corporation**

The expression “qualified innovative corporation” will mean, for a taxation year, a corporation, other than an excluded corporation, that has an establishment in Québec, carries on a business in Québec and from which it derives income from the commercialization of a qualified intellectual property asset to which it holds the rights.

An excluded corporation, for a taxation year, will mean:

- a corporation exempt from tax;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.



## ❑ **Qualified intellectual property asset**

The expression “qualified intellectual property asset” of a qualified innovative corporation, for a particular taxation year, will mean a legally protected incorporeal property that is:

- an invention protected by:
  - a patent or a certificate of supplementary protection,
  - plant breeder's rights; or
- software protected by copyright.

Also, to qualify as a qualified intellectual property asset, the property must result from R&D activities carried out in whole or in part in Québec.

## ■ **Patent or certificate of supplementary protection**

An invention protected by a patent or a certificate of supplementary protection will mean an invention covered by a valid patent or certificate obtained under the *Patent Act*<sup>23</sup> or any other law of a jurisdiction other than Canada to the same effect.

In this respect, a corporation will be deemed to hold a patent if it has duly filed an application with the competent authorities and the application is pending.

In addition, the application for a patent or certificate of supplementary protection must have been filed after March 17, 2016.

## ■ **Plant breeder's rights**

An invention protected by plant breeder's rights will mean a creation, discovery or development of a new plant variety protected by valid plant breeder's rights obtained under the *Plant Breeders' Rights Act*<sup>24</sup> or any other law of a jurisdiction other than Canada to the same effect.

In this respect, a corporation will be deemed to hold plant breeder's rights if it has duly filed an application with the competent authorities and the application is pending.

In addition, the application for plant breeder's rights must have been filed after the day of the budget speech.

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<sup>23</sup> R.S.C. 1985, c. P-4.

<sup>24</sup> S.C. 1990, c. 20. Under section 2 of that Act, a plant variety is defined as a plant grouping within a single botanical taxon of the lowest known rank that can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, can be distinguished from any other plant grouping by the expression of at least one of those characteristics and can be considered as a unit with regard to its suitability for being reproduced unchanged.

## ■ Software protected by copyright

Software protected by copyright will mean a computer program protected under the *Copyright Act*<sup>25</sup> or any other law of a jurisdiction other than Canada to the same effect.

In addition, to qualify as a qualified intellectual property asset, the date of the making of the software protected by copyright must be after the day of the budget speech.

## □ Calculation of the IDCII

The amount of the deduction is obtained by applying the following formula:

$$\text{IDCI} = [(A \times (B / C)) - D] \times (E / F) \times G$$

For the purposes of this formula:

- the letter A corresponds to the net income for tax purposes of the qualified innovative corporation for the taxation year;
- the letter B corresponds to the gross income of the qualified innovative corporation from the commercialization of a qualified intellectual property asset for the taxation year;
- the letter C corresponds to the total gross income of the qualified innovative corporation for the taxation year;
- the letter D corresponds to an estimate of the routine return to be subtracted from the qualified profits from a qualified intellectual property asset. It corresponds to the higher of the following amounts:
  - $10\% \times [B - ((A + H) \times (B / C))]$ 
    - for the purposes of this formula, the letter H corresponds to the amount of R&D expenditures of a current nature deducted in the taxation year by the qualified innovative corporation,
  - $25\% \times [A \times (B / C)]$ ;
- the letter E corresponds to the qualified amount of R&D expenditures related to Québec, for the purposes of the IDCII, of the qualified innovative corporation;
- the letter F corresponds to the overall amount of R&D expenditures, for the purposes of the IDCII, of the qualified innovative corporation;

<sup>25</sup> R.S.C. 1985, c. C-42. Under section 2 of this Act, a computer program means a set of instructions or statements, expressed, fixed, embodied or stored in any manner, that is to be used directly or indirectly in a computer in order to bring about a specific result.

- the letter G corresponds to the formula  $(I - J) / I$ , where:
  - the letter I corresponds to the basic rate applicable in Québec for the particular taxation year,
  - the letter J corresponds to 2%.

### ■ **Determination of qualified profits from a qualified intellectual property asset**

The first component of the formula for calculating the IDC—I—the portion  $[(A \times (B / C)) - D]$ —constitutes the qualified profits from the commercialization of a qualified intellectual property asset, which represents an approximation of the value added attributable to that asset.

For the purposes of calculating the qualified profits, the gross income of the qualified innovative corporation from the commercialization of a qualified intellectual property asset must be reasonably attributable to an establishment of the corporation located in Québec and constitute one of the following:

- a royalty, that is, a payment for the use or the concession of the use of a qualified intellectual property asset;
- income from the sale or lease of a property incorporating a qualified intellectual property asset;
- income from the supplying of a service intrinsically related to a qualified intellectual property asset;
- an amount obtained as damages from judicial remedies relating to a qualified intellectual property asset.

In determining the qualified profits from a qualified intellectual property asset, the element corresponding to the letter D is designed to subtract, from the qualified profits, an estimate of the routine return incorporated in the income that is not a attributable to a qualified intellectual property asset.

In addition, where the gross income from the commercialization of a qualified intellectual property asset consists of a royalty or an amount obtained as damages from judicial remedies, the letter D will be deemed to be zero in respect of that income.

### ■ **Determination of the Québec nexus ratio**

The second component of the formula for calculating the IDC—I—the portion  $(E / F)$ —takes into account the extent of the R&D activities carried out in Québec by the qualified innovative corporation.

The nexus ratio is calculated on a cumulative basis, according to a moving average including the particular taxation year and the preceding six years. For greater clarity, the expenditures preceding that period must not be included in the calculation of the ratio despite the fact that R&D activities relating to the creation of the qualified intellectual property asset may have occurred before the beginning of that period.

For the purposes of calculating the nexus ratio,<sup>26</sup> the qualified amount of the R&D expenditures related to Québec—the letter E—corresponds, for a taxation year, to the aggregate of the following amounts:<sup>27</sup>

- the wages that the qualified innovative corporation paid to its employees of an establishment located in Québec in respect of R&D work that it carried out;
- the portion of the consideration that it paid under a contract, in respect of R&D work carried out on its behalf, to a subcontractor with which it is not dealing at arm's length, that can reasonably be attributed to the wages paid to employees of an establishment of the subcontractor located in Québec;
- the amount representing 80% of the portion of the amount of an expenditure, which would otherwise be eligible for the refundable tax credit commonly known as “R&D university,”<sup>28</sup> that it paid under a contract with an eligible university entity, an eligible public research centre or an eligible research consortium to which it is not related that can reasonably be attributed to R&D expenditures made in Québec;
- one half of the portion of the consideration that it paid under a contract, in respect of R&D work carried out on its behalf, to a subcontractor with which it is dealing at arm's length that can reasonably be attributed to work carried out by the employees of an establishment of the subcontractor located in Québec;
- the product obtained by multiplying one half of the portion of the consideration that it paid under a contract, in respect of R&D work carried out on its behalf outside Québec, to a subcontractor with which it is dealing at arm's length by the proportion of the qualified innovative corporation's business carried on in Québec for the year.

As for the overall amount of R&D expenditures—the letter F—it corresponds, for a taxation year, to the aggregate of the following amounts:

- the wages that the qualified innovative corporation paid to its employees in respect of R&D work that it carried out;
- the portion of the consideration that it paid under a contract, in respect of R&D work carried out on its behalf, to a subcontractor with which it is not dealing at arm's length that can reasonably be attributed to the wages paid to employees of the subcontractor;
- one half of the portion of the consideration that it paid under a contract, in respect of R&D work carried out on its behalf, to a subcontractor with which it is dealing at arm's length by the proportion of the qualified innovative corporation's business carried on in Québec for the year.

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<sup>26</sup> The rules applicable to the calculation of the refundable R&D tax credits will apply to the various elements of the calculation of the nexus ratio, with the necessary adaptations.

<sup>27</sup> The qualified amount of the R&D expenditures related to Québec, for a particular taxation year, cannot exceed the overall amount of R&D expenditures for that year.

<sup>28</sup> *Taxation Act*, s. 1029.8.6.

For greater clarity, where it is necessary to calculate the nexus ratio of a new corporation, or the nexus ratio of a corporation that has pursued R&D activities for less than seven years, this calculation can be done, for the first years, by taking into account only the years available at that time.

### ■ **Determination of the rate of the tax benefit**

The third component of the IDCI calculation formula—element G—incorporates a factor making it possible to attain the effective taxation rate of 2% applicable to the qualified income derived from the commercialization of a qualified intellectual property asset.

This factor represents the quotient obtained by dividing, by the basic rate applicable in Québec, the amount by which the basic rate applicable to Québec exceeds the effective taxation rate aimed at.

Thus, for 2021, since the basic rate will be 11.5%, this factor will be 82.61%.

### □ **Special tax**

The tax legislation will be amended so that a qualified innovative corporation will be subject to a special tax for a taxation year in the following situations:

- the application for legal protection is denied and can no longer be appealed;
- the application for legal protection has not resulted in the issuing of the relevant document by the competent authority more than five years after the date on which the application was filed with that authority, unless the qualified innovative corporation is able to show that the additional delays are not principally attributable to itself;
- the legal protection was invalidated according to the procedure provided for in the relevant legislation;
- a reassessment cancels R&D expenditures of the qualified innovative corporation included in the calculation of the nexus ratio of a qualified intellectual property asset. In this context, the qualified innovative corporation will be subject to the special tax only to the extent of the R&D expenditures that were denied.

### ■ **Calculation of the special tax**

This special tax will apply according to the usual rules and will be aimed at recovering the tax reduction resulting from the application of the IDCI granted to a qualified innovative corporation for a preceding taxation year.

More specifically, this special tax will correspond to the amount of tax that the qualified innovative corporation would have had to pay for the taxation year covered by one of the situations mentioned above if no tax reduction had been granted for that year pursuant to the IDCI in excess of the amount it was required to pay for that year taking into account the application of the IDCI.

## ❑ Other terms and conditions

Finally, clarifications may be made before the implementation of this measure in order to clarify its application details or introduce integrity rules.

## ❑ Application date

This new deduction will apply in respect of a taxation year of a corporation beginning after December 31, 2020.

### 1.4 **Elimination of the expenditure exclusion threshold for certain income tax credits for scientific research and experimental development**

A person that carries on a business in Canada and carries out scientific research and experimental development (R&D) in Québec, or causes such R&D to be carried out on the person's behalf as part of a research contract, can benefit from various refundable tax credits.

The first refundable tax credit, commonly known as “R&D salary,” concerns, among other things, the wages that a person pays to employees where the person personally carries out R&D work in Québec, or one half of the amount of the research contract where the R&D work is awarded to a subcontractor who is dealing at arm's length with the person.

The second refundable tax credit, commonly known as “R&D university,” concerns, among other things, 80% of the amount of a research contract where the R&D work is awarded on a subcontracting basis to an eligible university entity, eligible public research centre or eligible research consortium to which the person awarding the R&D work is not related.

The third refundable tax credit concerns pre-competitive research carried out in private partnership. This refundable tax credit concerns R&D work that two or more persons agree to carry out in collaboration in Québec, or to cause to be carried out on their behalf in Québec, under a research contract.

The fourth refundable tax credit concerns fees paid to an eligible research consortium. Essentially, this refundable tax credit concerns the fees that a person pays to an eligible research consortium and that can be reasonably considered as relating to R&D work carried out by the consortium relating to a business of that person.

The rate of these refundable tax credits is 14%, but it can be increased up to 30% for a Canadian-controlled private corporation that so qualifies.<sup>29</sup>

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<sup>29</sup> Briefly, this is a Canadian-controlled corporation whose assets, taking into account the assets of associated corporations, is less than \$75 million for the preceding fiscal period. More specifically, where those assets are \$50 million or less, the rate is 30%, which is reduced linearly to 14% where the assets vary between \$50 million and \$75 million. The increased rate applies only to the first \$3 million of qualified R&D expenditures.

On December 2, 2014,<sup>30</sup> in the *Update on Québec's Economic and Financial Situation – Fall 2014*, the government announced amendments to the tax legislation to reduce the level of tax assistance concerning expenditures related to R&D activities. One of these amendments was the introduction of an expenditure exclusion threshold for the first dollars that a taxpayer or a partnership spends annually on R&D<sup>31</sup> for the purposes of the refundable tax credits described above.

Briefly, under the expenditure exclusion threshold, no tax assistance is granted for a taxpayer's or partnership's otherwise qualified R&D expenditures that are below a threshold applicable to the taxpayer or partnership for a taxation year or fiscal period, as applicable. This threshold corresponds to an amount of \$50 000 that increases linearly to \$225 000 where the assets of the taxpayer or partnership, as applicable, vary between \$50 million and \$75 million.

Furthermore, where a taxpayer or a member of a partnership is entitled to more than one R&D tax credit, the exclusion threshold is allocated proportionately among the various R&D tax credits.

### **❑ Elimination of the exclusion threshold for R&D tax credits fostering collaboration with research entities**

To further stimulate innovation, which fosters the productivity and the competitiveness of Québec businesses, the tax legislation will be amended to eliminate the exclusion threshold for qualified expenditures relating to a university research contract, an eligible research contract entered into with an eligible public research centre, a pre-competitive research project carried out in private partnership, or fees or dues paid to an eligible research consortium.

For greater clarity, the elimination of the expenditure exclusion threshold will not apply to the “R&D salary” refundable tax credit. However, for the purposes of calculating that tax credit, the rule providing for the splitting of the exclusion threshold among the various R&D tax credits will continue to apply as if the definition of reducible expenditures still applied to the other refundable R&D tax credits.

### **❑ Application date**

These changes will apply to expenditures incurred by a taxpayer or partnership for a taxation year or fiscal period, as applicable, that begins after the day of the budget speech relating to R&D work carried out after that day.

## **1.5 Introduction of the synergy capital tax credit**

To support the growth of innovative businesses that, to develop their full potential, need, in particular, to have access to capital and to business networks, a new tax credit will be introduced. This tax credit will foster business networking and synergy between Québec businesses.

<sup>30</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2014-11*, December 2, 2014, pp. 21-24.

<sup>31</sup> *Ibid.*, pp. 22-24.

Briefly, the synergy capital tax credit will be granted to a corporation, other than a financial institution, a real estate sector corporation or a corporation whose activities consist mainly in granting loans or making investments, that subscribes shares of the capital stock of a qualified corporation in the life sciences, manufacturing or processing, green technologies, artificial intelligence or information technologies sectors. It will be calculated at a rate of 30% on the amount paid by the corporation for subscription of shares. The shares subscribed must be retained by the corporation for a minimum period of five years.

The tax credit will be non-refundable and can be, for a corporation, up to \$225 000 annually.

A corporation wishing to issue shares of its capital stock enabling another corporation to claim the tax credit will have to meet certain conditions, in particular with regard to its size, the sector of activity in which it is engaged and the scale of its activities in Québec. It will also have to obtain from Investissement Québec an authorized placement certificate. It will thus be able to issue shares of its capital stock, for the purposes of the tax credit, for the authorized placement amount for which the certificate was issued. The funds obtained further to the issuing of shares of its capital stock must be used by the corporation to make investments related to the carrying on of its business.

Investissement Québec will be able to issue authorized placement certificates for an amount not exceeding \$30 million annually.

## **☐ Qualified investor**

The tax legislation will thus be amended so that a qualified investor, for a taxation year, for the purposes of the synergy capital tax credit, means a corporation, other than an excluded investor for the year, that, in the year, carries on a business in Québec and has an establishment in Québec.

## **■ Excluded investor**

An excluded investor, for a taxation year, will mean a corporation that, for the year, is one of the following corporations:

- a specified financial institution, an investment corporation, a mortgage investment corporation or a mutual fund corporation;<sup>32</sup>
- a corporation whose main business consists in:
  - leasing, developing or selling immovable property it owns,
  - granting loans or investing funds in the form of shares of the capital stock of other corporations, bonds, debentures, bills, notes, obligations secured by mortgage or similar obligations, or
  - a combination of those activities;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

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<sup>32</sup> *Taxation Act*, s. 1.



## ❑ Calculation of the tax credit

The tax legislation will be amended so that a qualified investor, for a taxation year, will be able to claim, for the year, a non-refundable tax credit equal to the product obtained by multiplying, by a rate of 30%, the total, not exceeding \$750 000, of the amounts each of which is an eligible investment of the investor for the year.

The portion of the tax credit of a taxation year that cannot be used to reduce the tax of the qualified investor, for the year, may be carried back to the preceding three years or forward to the following 20 years. However, it may not be carried to a taxation year ended before January 1, 2021.

## ❑ Eligible investment

An eligible investment of a qualified investor, for a taxation year, will correspond to the amount paid, in the year, by the investor to a corporation, for the subscription, in the year, of shares of the corporation's capital stock, provided all the following conditions are met:

- the shares issued to the investor at the time of the subscription are common shares<sup>33</sup> of the corporation's capital stock with full voting rights in all circumstances;
- the shares are subscribed by the investor as first purchaser;
- they are fully paid up at the time of subscription for consideration in money equal to their fair market value at the time of subscription;
- at the time the shares of the corporation's capital stock are issued, the corporation holds a valid authorized placement certificate;
- the investor did not alienate or otherwise dispose of other shares of the corporation's capital stock on the day of the share issue or at any time included in the 24-month period preceding that day;
- on one hand, at the time the shares are issued, the investor and the corporation are dealing with each other at arm's length and, on the other hand, in the particular taxation year including the day of the share issue and in each taxation year that begins in the 48-month period following the end of the particular year, the investor and the corporation are not associated corporations;
- the investor does not alienate, exchange or otherwise dispose of the shares in the 60-month period that begins the day of the share issue, except in case of bankruptcy or insolvency of the investor or the corporation, unilateral redemption of the shares by the corporation or repurchase of the shares at the investor's request where the legislation confers on the investor the right to demand repurchase of all the investor's shares.<sup>34</sup>

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<sup>33</sup> Ibid.

<sup>34</sup> *Business Corporations Act* (CQLR, chapter S-31.1), s. 372.

The amount of the qualified investor's eligible investment related to subscription of shares of the corporation's capital stock cannot, however, exceed the authorized placement amount indicated in the authorized placement certificate issued to the corporation or the portion of that amount attributed to the investor.

To claim the tax credit in respect of an eligible investment, the qualified investor must submit to Revenu Québec, in addition to the prescribed form, a copy of the authorized placement certificate issued to the corporation by Investissement Québec and a written confirmation from the corporation's authorized representative of the amount received from the investor for the issuing of shares of the corporation's capital stock, the share issue date and the portion of the corporation's authorized placement amount attributed to the investor.

The application for the tax credit, for a particular taxation year, must be filed by the investor with Revenu Québec no later than the last day of the 12-month period following the filing deadline applicable to it for the particular taxation year.

### **□ Authorized placement certificate**

The *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter, the “sectoral act”) will be amended so that a corporation wishing to issue shares of its capital stock to a qualified investor pursuant to the synergy capital tax credit will be required to obtain from Investissement Québec an authorized placement certificate.

To obtain an authorized placement certificate, a corporation will be required to show, to the satisfaction of Investissement Québec, that it meets the conditions to qualify as a qualified corporation at the time the application for issue of the certificate is filed.

The authorized placement certificate issued to a corporation by Investissement Québec will certify that the corporation is authorized to issue shares of its capital stock, for the purposes of the synergy capital tax credit, for an amount not exceeding the amount of the authorized placement indicated therein.

The authorized placement certificate issued to a qualified corporation will be valid for a six-month period following the day of its issue. The qualified corporation can, however, before the end of that period, apply to Investissement Québec to extend the certificate's period of validity for a two-month period.

### **■ Qualified corporation**

A qualified corporation, at the time it files an application for the issuing of an authorized placement certificate with Investissement Québec, for the purposes of the synergy capital tax credit, will mean a corporation that, throughout its most recent taxation year ended before the day the application is filed, is a Canadian-controlled private corporation that, in that year, carries on a business in Québec and has an establishment in Québec and whose paid-up capital,<sup>35</sup> for the year, is less than \$15 million.

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<sup>35</sup> In general, a corporation's paid-up capital, for a particular taxation year, is equal to its paid-up capital determined for the taxation year preceding the particular year. Where the corporation is associated with other corporations, for the taxation year, the corporation's paid-up capital takes into account the paid-up capital of the other corporations, according to the usual rules.

The corporation's activities in Québec, for that taxation year, must represent more than 75% of all its activities.

Also, the corporation's gross income, for its most recent fiscal period ended before the day the application for the authorized placement certificate is filed, must be less than \$10 million, and the activities it carries on, for that period, must be mainly eligible activities.

Likewise, at the time its application for issue of an authorized placement certificate is filed, the corporation must show, to the satisfaction of Investissement Québec, that it has been carrying on eligible activities for more than one year.

Where a corporation's most recent taxation year or most recent fiscal period ended before the day its application for the authorized placement certificate is filed has fewer than 183 days, the review of compliance with the conditions related to the proportion of its activities in Québec, its gross income and the proportion of its eligible activities will cover its most recent taxation year or most recent fiscal period, as applicable, ended before the day its application for the authorized placement certificate is filed with Investissement Québec having at least 183 days.

Furthermore, the conditions relating to the corporation's status as a Canadian-controlled private corporation, the carrying on of a business in Québec, the presence of an establishment in Québec and the proportion of its eligible activities must also be met for the particular taxation year or particular fiscal period that includes the day the application for issue of the authorized placement certificate is filed with Investissement Québec and for each taxation year or fiscal period that begins in the 48-month period following the end of the particular taxation year or particular fiscal period, as applicable. Likewise, the corporation's activities must be carried on mainly in Québec for each of those years.

### ■ **Activities in Québec**

A corporation's activities in Québec, for a taxation year, represent at least 75% of all its activities for the year if the proportion that the aggregate of the salaries or wages paid by the corporation to its employees of an establishment of the corporation located in Québec is of the aggregate of the salaries or wages it paid, for that year, is equal to at least 75%.<sup>36</sup>

A corporation's activities, for a taxation year, are carried on mainly in Québec if the proportion that the aggregate of the salaries or wages paid by the corporation to its employees of an establishment of the corporation located in Québec is of the aggregate of the salaries or wages it paid, for that year, exceeds 50%.<sup>37</sup>

### ■ **Eligible activities**

A corporation's activities, for a fiscal period, are mainly eligible activities if the proportion that its gross income from such eligible activities is of the aggregate of its gross income, for the fiscal period, exceeds 50%.

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<sup>36</sup> To calculate this proportion, the salaries or wages paid by the corporation to its employees and used to calculate the allocation of the corporation's business in Québec and elsewhere will be used (*Regulation respecting the Taxation Act*, s. 771R4).

<sup>37</sup> See the preceding note.

The following activities are eligible activities for the purposes of the synergy capital tax credit:

- life sciences, more specifically:
  - research, development, production and marketing of medications for human and animal health,
  - design, development, manufacturing and commercialization of physical or digital medical products, other than medications,
  - research, development, production and marketing of natural health products;
- manufacturing or processing;
- green technologies, that is, manufacturing or processing and research and development for the commercial use of technologies that boost energy efficiency or energy savings, or reduce greenhouse gas emissions or the environmental impact;
- artificial intelligence, that is, the design and development of artificial intelligence solutions;
- information technologies, that is, computer and peripheral equipment manufacturing, semi-conductor and other electronic component manufacturing, radio and television broadcasting and wireless communications equipment manufacturing, software publishing, video game publishing, data processing, data hosting and related services, and computer systems design and related services.

#### ■ **Gross income of the corporation**

Where an eligible corporation is associated with other corporations, at any time in a fiscal period, its gross income for that year corresponds to the amount that would be the gross income of all those associated corporations, in respect of that year, calculated on the basis of the consolidated statement of the results of the associated corporations for the year.

#### ■ **Information to be transmitted to Investissement Québec**

Although Investissement Québec, further to the issuing of the authorized placement certificate, will verify that the corporation meets the conditions allowing it to qualify as a qualified corporation, it is up to Revenu Québec to determine whether a corporation is a Canadian-controlled private corporation, whether it has an establishment in Québec, whether it carries on a business in Québec, as well as the amount of its paid-up capital and of the salaries or wages paid by the corporation to its employees of an establishment located in Québec and the salaries or wages paid to all its employees.

Consequently, the corporation must submit to Investissement Québec its financial statements, income tax returns and any other document that could be useful to Investissement Québec for validating the information transmitted. Investissement Québec can also require the corporation to provide it with an authorization to obtain from Revenu Québec the necessary information to review compliance with these eligibility conditions.

### ■ **Authorized placement amount**

The authorized placement amount of a qualified corporation for which the certificate is issued will be determined by Investissement Québec further to the presentation by the qualified corporation of a detailed description of the projected use of the funds from the issuing of shares of its capital stock related to the authorized placement certificate and the expected time frame for use of the funds.

The projected use of the funds from the issuing of shares of the corporation's capital stock related to the authorized placement certificate must, in the opinion of Investissement Québec, meet the requirements for eligible use of the funds.

The aggregate of the amounts each of which corresponds to the authorized placement amount of a qualified corporation for which an authorized placement certificate has been issued, for each 12-month period, cannot exceed \$1 million.

### ■ **Use of funds from the share issue**

The funds from the issuing of shares of a corporation's capital stock related to an authorized placement certificate must be used for investments related to the carrying on of the qualified corporation's business in connection with its eligible activities, in compliance with the description presented to Investissement Québec when it filed its application for issue of the authorized placement certificate and any modification thereto made in agreement with Investissement Québec.

However, where the corporation's activities are mainly activities in the manufacturing or processing sector, other than an activity related to life sciences, green technologies or information technologies, the funds from the issuing of shares of the corporation's capital stock related to the authorized placement certificate must be used in compliance with the description presented to Investissement Québec and for investments related to the carrying on of its business to improve the use of or connection to new technologies or to integrate technologies enabling, in particular, digitization or automation of the business's activities.

Furthermore, the use of funds from the issuing of shares of the corporation's capital stock related to the authorized placement certificate for any of the following purposes will be a use for a non-eligible purpose:

- making investments outside Québec, unless the corporation can show that the investment is directly connected to the carrying on of its business in Québec;
- repaying a debt, except with the agreement of Investissement Québec;
- lending money;
- purchasing land for resale;

- purchasing, acquiring or subscribing shares of other corporations, an interest in partnerships or in trusts;
- purchasing a business;
- paying dividends, repaying principal or any other disbursement to a shareholder of the corporation or a person related to such a shareholder;
- purchasing shares of its capital stock.

## ■ **Monitoring by Investissement Québec**

A corporation to which an authorized placement certificate has been issued will be required to transmit to Investissement Québec, for that certificate and within the time limit Investissement Québec determines for that purpose, the name and address of each investor to which shares of the corporation's capital stock have been issued in compliance with the certificate, the number of such shares issued to the investor, the amount paid by the investor for subscription of shares and the portion of the corporation's authorized placement amount attributed to the investor.

Also, the corporation will be required, for the particular taxation year or particular fiscal period including the day the application for issue of the authorized placement certificate is filed with Investissement Québec and for each taxation year or fiscal period that begins in the 48-month period following the end of the particular taxation year or particular fiscal period, as applicable, transmit to Investissement Québec its financial statements and income tax returns, as well as a description of the use of the funds from the issuing of shares of its capital stock related to the authorized placement certificate. It will also be required to transmit to Investissement Québec any other document necessary for the administration of the tax credit.

## □ **Penalty for a corporation related to an authorized placement certificate**

The tax legislation will be amended so that a corporation will incur a penalty equal to 30% of the aggregate of the amounts each of which is an amount received on account of the issuing of shares of its capital stock related to an authorized placement certificate where, for the particular taxation year in which the application for issue of the authorized placement certificate was filed with Investissement Québec, or for a taxation year that begins in the 48-month period following the end of the particular year, one of the following situations occurs:

- the corporation is not, any time in the year, a Canadian-controlled private corporation;
- the corporation does not carry on a business in Québec or does not have an establishment in Québec;
- the corporation's activities are not carried on mainly in Québec.

Likewise, where the total of each portion of the authorized placement amount attributed to an investor in respect of an authorized placement certificate of the corporation exceeds its authorized placement amount related to that certificate, the corporation will incur a penalty equal to 30% of that excess amount.

Furthermore, the sectoral act will be amended so that Investissement Québec will be able to revoke an authorized placement certificate issued to the corporation or reduce the authorized placement amount further to that certificate in any of the following situations:

- for the particular fiscal period that includes the day the application for issue of the authorized placement certificate was filed with Investissement Québec or for a fiscal period that begins in the 48-month period following the end of the particular period, the corporation's activities are no longer mainly eligible activities;
- the corporation does not use all or a part of the funds from the issuing of shares of its capital stock related to the authorized placement certificate in compliance with the description presented to Investissement Québec to obtain the certificate and any modification thereto made in agreement with Investissement Québec, or uses them for a non-eligible purpose;
- at any time, within the 60-month period that begins the day shares of its capital stock related to the authorized placement certificate are issued, the corporation unilaterally redeems all or a portion of the shares or repurchases all of an investor's shares that were issued to the investor further to the authorized placement where the legislation confers on that investor the right to demand the repurchase of all of the investor's shares.<sup>38</sup>

The tax legislation will be amended so that, where a corporation's authorized placement certificate is revoked or the authorized placement amount indicated therein is reduced, the corporation will incur a penalty equal to 30% of the aggregate of the amounts each of which is an amount received further to the issuing of shares of its capital stock related to the revoked authorized placement certificate or the reduction in the authorized placement amount for which the certificate was issued, except where a penalty has already been paid in respect of those amounts.

Where a corporation is required to pay a penalty regarding an amount received for the issuing of shares of its capital stock related to an authorized placement certificate, the qualified investor to which the shares were issued will no longer have any obligation to maintain the conditions for qualification of the investment as an eligible investment in connection with the shares.

## **❑ Special tax applicable to the qualified investor**

The tax credit of a qualified investor attributable to an eligible investment will be recovered by means of a special tax, according to the usual rules, where the qualified investor alienates, exchanges or disposes of shares of a corporation's capital stock subscribed further to the eligible investment at any time in the 60-month period following the share issue day, otherwise than as the consequence of a unilateral redemption by the corporation or the repurchase of the shares at the investor's request where the legislation confers on the investor the right to demand the repurchase of all of the investor's shares.<sup>39</sup>

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<sup>38</sup> See note 34.

<sup>39</sup> Ibid.

The same will hold true if the qualified investor and the corporation are associated in a taxation year that begins in the 48-month period following the end of the taxation year in which the shares of the corporation's capital stock were issued to the investor.

Where a portion of the synergy capital tax credit in respect of an eligible investment was not applied against the investor's tax, for a prior taxation year, the balance of the tax credit carried over will be subtracted and the tax credit will then be recovered by means of the special tax.

For greater clarity, the special tax the an eligible investor may be required to pay in respect of an investment cannot exceed the amount of the synergy capital tax credit claimed in respect of that investment.

Furthermore, if an investor does not meet the conditions for claiming the non-refundable tax credit, in respect of an investment related to shares of a corporation's capital stock, or if the investor is required to pay a special tax in respect of all or part of such an investment, the corporation cannot be required to pay a 30% penalty that might otherwise be applicable to the amounts received in connection with all or part of that investment.

## **❑ Other terms and conditions**

Where a qualified corporation amalgamates with another corporation, further to the issue by Investissement Québec of an authorized placement certificate to the qualified corporation, Investissement Québec can issue, to the corporation resulting from the amalgamation, a certificate indicating that that corporation is continuing the activities of the qualified corporation, provided the corporation resulting from the amalgamation otherwise meets the conditions that would be applicable to the qualified corporation to retain its qualification.

In such a case, the shares of the capital stock of the corporation resulting from the amalgamation received by a qualified investor, in exchange for the shares of the qualified corporation's capital stock in respect of which the investor claimed an amount on account of the synergy capital tax credit, will be deemed, for the purposes of the tax credit, to be the same shares as those of the qualified corporation for the remainder of the period applicable for the qualification of the eligible investment, provided that those shares are common shares<sup>40</sup> of the capital stock of the corporation resulting from the amalgamation, with full voting rights in all circumstances, and the investor receives no other consideration.

The corporation resulting from the amalgamation will be required to meet the conditions and obligations that were applicable to the qualified corporation, in particular in regard to use of the funds from the issuing of shares of its capital stock related to the authorized placement certificate, for the remainder of the period that would have been applicable to the qualified corporation, but for the amalgamation.

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<sup>40</sup> See note 32.



Furthermore, where it is reasonable to believe that if the qualified corporation had disclosed the real facts to Investissement Québec, it would not have obtained an authorized placement certificate and a qualified investor that claimed the tax credit in respect of an eligible investment made pursuant to that authorized placement was aware of those facts, that qualified investor will then be solidarily liable for payment of the penalty incurred by the corporation. The same will hold true where a qualified investor claims the tax credit in respect of an eligible investment related to a corporation's authorized placement certificate if it is reasonable to believe that the qualified investor knew that all or a part of the investment exceeded the qualified corporation's authorized placement amount for which the authorized placement certificate was issued or the portion of the authorized placement amount that the corporation could attribute to the investor.

### ☐ **Obligations related to the *Securities Act***

A corporation that makes a private placement or a public offering to a qualified investor pursuant to the synergy capital tax credit might no longer enjoy the status of a private issuer. A corporation that submits to Investissement Québec an application for an authorized placement certificate should therefore make sure that it fulfils the obligations of the *Securities Act*.<sup>41</sup>

### ☐ **Responsibilities of Investissement Québec**

In addition to issuing authorized placement certificates, Investissement Québec will be responsible for making sure that the total of the authorized placement amounts indicated in each of the authorized placement certificates issued in a calendar year, does not exceed \$30 million.

### ☐ **Application date**

Investissement Québec will be able to accept an application for the issuing of an authorized placement certificate that is filed after December 31, 2020.

Also, the synergy capital tax credit will apply in respect of a share subscription carried out after December 31, 2020.

## **1.6 Introduction of a refundable tax credit for SMEs for persons with a severely limited capacity for employment**

Over the years, the government has adopted various initiatives aimed at promoting equal access to the labour market for persons with disabilities.

For example, the "Employment Integration Contract" measure provides financial assistance to the employer of a person with a disability for the amenities required by the person's functional impairment and is aimed at facilitating the person's integration into and retention in the labour market.

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<sup>41</sup> CQLR, chap V-1.1.

To further support SMEs and promote the hiring and retention of workers with a severely limited capacity for employment, a refundable tax credit for SMEs for persons with a severely limited capacity for employment will be introduced.

Briefly, this refundable tax credit will be granted to qualified corporations that employ individuals with a severely limited capacity for employment. The refundable tax credit will be equal to the amount of the employer contributions paid by the corporation in respect of such an employee.

A qualified corporation that is a member of a qualified partnership can also claim this refundable tax credit in respect of its share of the employer contributions paid by the partnership regarding an employee with a severely limited capacity for employment.

## ☐ **Qualified corporation**

The tax legislation will be amended so that the expression “qualified corporation,” for a taxation year, for the purposes of the refundable tax credit for SMEs for persons with a severely limited capacity for employment, means a corporation, other than an excluded corporation, that has an establishment in Québec and carries on a business in Québec, whose paid-up capital, for the year, is less than \$15 million<sup>42</sup> and, except where the corporation is a primary and manufacturing sectors corporation for the year,<sup>43</sup> whose total remunerated hours, for the year, exceeds 5 000.<sup>44</sup>

## ■ **Excluded corporation**

An excluded corporation, for a taxation year, will mean:

- a corporation exempt from tax for the taxation year;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

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<sup>42</sup> In general, the paid-up capital of a corporation, for a particular taxation year, is equal to its paid-up capital determined for the taxation year preceding the particular year. Where the corporation is a member of an associated group, for the taxation year, the corporation's paid-up capital takes into account the paid-up capital of the members of the associated group, according to the usual rules.

<sup>43</sup> *Taxation Act*, s. 771.1.

<sup>44</sup> *Ibid.*, s. 771.2.1.2.1. Briefly, the number of remunerated hours of a corporation, for a particular taxation year, corresponds to either the number of remunerated hours determined in respect of the corporation's employees for the particular year or the number of remunerated hours determined in respect of the corporation's employees and the employees of the corporations with which it is associated in the particular year, for the taxation years of those corporations that ended in the calendar year preceding the calendar year in which the particular year ends, whichever is greater.

## ❑ **Qualified partnership**

The tax legislation will be amended so that the expression “qualified partnership,” for a fiscal period, means a partnership that carries on a business in Québec and has an establishment in Québec and whose paid-up capital, for the fiscal period, is less than \$15 million.<sup>45</sup> Also, the number of remunerated hours of the partnership's employees must, for the fiscal period, exceed 5 000, except in the case of a partnership that would have been a primary and manufacturing sectors corporation, for the fiscal period, if it had been a corporation.<sup>46</sup>

## ❑ **Calculation of the refundable tax credit**

The tax legislation will be amended so that a qualified corporation will be able, for a taxation year, to claim, for that taxation year, a refundable tax credit corresponding to the aggregate of the amounts each of which is the corporation's qualified expenditure in respect of an eligible employee for the taxation year.

Likewise, a qualified corporation, for a taxation year, that is a member of a qualified partnership at the end of a fiscal period of the partnership that ends in the taxation year, will be able to claim, for that taxation year, a refundable tax credit corresponding to the corporation's share of the aggregate of the amounts each of which is the partnership's qualified expenditure in respect of an eligible employee for that fiscal period.

In this respect, the share of a qualified corporation of the aggregate of the amounts each of which is a qualified expenditure of a qualified partnership of which it is a member at the end of a fiscal period will be equal to the agreed proportion,<sup>47</sup> in respect of the qualified corporation for that fiscal period, of the aggregate of those amounts.

## ❑ **Qualified expenditure**

The qualified expenditure of a qualified corporation in respect of an eligible employee, for a taxation year, or of a qualified partnership in respect of an eligible employee, for a fiscal period, will mean the amount that the corporation or partnership, as applicable, paid as employer contributions for a calendar year subsequent to 2019 that ended in the taxation year, or of a calendar year subsequent to 2019 that ended in the fiscal period, as applicable, for salary, wages or other remuneration that the corporation or partnership paid, allocated, granted or awarded in the calendar year to that employee.

<sup>45</sup> The rules applicable for the determination of the paid-up capital of a corporation will apply as if the partnership were a corporation (see note 42).

<sup>46</sup> *Taxation Act*, s. 771.2.1.2.2. Briefly, the proportion of the partnership's primary and manufacturing sectors activities, for the fiscal period, must exceed 25%.

<sup>47</sup> *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 amount of any government assistance, any non-government assistance and any profit or benefit attributable to the qualified expenditure of a corporation or partnership must be subtracted from the amount of that expenditure, according to the usual rules.

## ■ Employer contributions

The employer contributions paid by a qualified corporation or qualified partnership, for a calendar year, in respect of an employee will mean the amounts paid by the corporation or partnership, as applicable, for that calendar year regarding that employee under the following provisions:

- section 59 of the *Act respecting parental insurance*;<sup>48</sup>
- section 39.0.2 of the *Act respecting labour standards*;<sup>49</sup>
- section 34 of the *Act respecting the Régie de l'assurance maladie du Québec*;<sup>50</sup>
- section 52 of the *Act respecting the Québec Pension Plan*.<sup>51</sup>

An employer contribution paid by a qualified corporation or qualified partnership, for a calendar year, in respect of an employee will also mean an amount paid for that calendar year as an assessment by the qualified corporation or qualified partnership in respect of the employee pursuant to the *Act respecting industrial accidents and occupational diseases*.<sup>52</sup>

## □ Eligible employee

An eligible employee of a qualified corporation, for a taxation year, or of a qualified partnership, for a fiscal period, will mean, respectively, an employee of the corporation at a time in the calendar year that ended in the taxation year, or of the partnership at a time in the calendar year that ended in the fiscal period, who has a severe and prolonged impairment in mental or physical functions, as defined for the purposes of the tax credit for a severe and prolonged impairment in mental or physical functions,<sup>53</sup> other than an employee who is an excluded employee at a time in the calendar year.

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<sup>48</sup> CQLR, chapter A-29.011.

<sup>49</sup> CQLR, chapter N-1.1.

<sup>50</sup> CQLR, chapter R-5.

<sup>51</sup> CQLR, chapter R-9.

<sup>52</sup> CQLR, chapter A-3.001.

<sup>53</sup> *Taxation Act*, subparagraphs a to b.1 of the first paragraph of section 752.0.14.

Briefly, an individual has a severe and prolonged impairment in mental or physical functions where the effects of the impairment are such that:

- the individual's ability to perform a basic activity of daily living is markedly restricted; or
- the individual's ability to perform more than one basic activity of daily living is significantly restricted if the cumulative effects of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living.

Furthermore, an employee of the corporation or partnership in respect of which the Minister of Labour, Employment and Social Solidarity has issued a certificate showing that the person received a social solidarity allowance during the year or one of the preceding five years under the Social Solidarity Program established in the *Individual and Family Assistance Act*<sup>54</sup> will also be an eligible employee.

### ■ **Excluded employee**

An excluded employee, at a particular time, will mean:

- where the employer is a corporation, an employee who is, at that time, a specified shareholder<sup>55</sup> of the corporation or, where the corporation is a cooperative, a specified member of the corporation;
- where the employer is a partnership, an employee who is, at that time, 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 applicable, of that member.

A specified member, at a particular time, of a corporation that is a cooperative will mean a member having, directly or indirectly, at that time, not less than 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.

### □ **Other terms and conditions**

Where, in respect of a salary or wages paid by a qualified corporation or qualified partnership to an eligible employee, the corporation or partnership can claim the tax holiday from the employer contribution to the Health Services Fund in application of the tax holiday for large investment projects, the corporation will not be able to claim the refundable tax credit for SMEs for persons with a severely limited capacity for employment in respect of the expenditure for that salary or those wages.

<sup>54</sup> CQLR, chapter A-13.1.1.

<sup>55</sup> A specified shareholder of a corporation, at a particular time, includes a taxpayer that owns, directly or indirectly, at that time, not less than 10% of the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation and a person not dealing at arm's length with such a taxpayer.

Finally, where more than one calendar year ends in a taxation year of a qualified corporation, the refundable tax credit that the qualified corporation may claim, for the taxation year, will correspond to the total of the amounts determined in respect of each calendar year that ended in the taxation year, as if each of them had ended in a different taxation year.

This rule will apply, with the necessary adaptations, for the calculation of the refundable tax credit to which a qualified corporation that is a member of a qualified partnership is entitled, for a taxation year in which a fiscal period of the partnership ends, where more than one calendar year ends in that period.

## **❑ Application date**

These changes will apply in respect of a taxation year ending after December 31, 2019.

### **1.7 Changes to the refundable tax credit for Québec film or television production**

In general, the refundable tax credit for Québec film or television production applies to the labour expenditure incurred by a qualified corporation that produces a Québec film<sup>56</sup> in respect of which the Société de développement des entreprises culturelles (SODEC) issued a certificate recognizing the film referred to therein as a qualified Québec film or television production.

The tax credit is equal to 40% or 32% of the qualified labour expenditure incurred to produce the film in the case of a production that is not adapted from a foreign format and to 36% or 28% of such an expenditure in the case of a production that is adapted from a foreign format (hereinafter, the “base rates”). However, the labour expenditure giving rise to the tax credit may not exceed 50% of the film's production costs.

Thus, the 40% and 36% base rates apply to the labour expenditure related to the production of certain feature-length, medium-length or short films, certain productions intended for minors and certain documentaries, provided they are in French; this also applies to giant-screen films, regardless of the language. Furthermore, the 32% and 28% base rates apply to the production of other classes of eligible films.

#### **1.7.1 Change to the definition of a film adapted from a foreign format**

In the budget speech of March 26, 2015,<sup>57</sup> to further encourage Québec's film and television industry while ensuring that the tax assistance provided by means of the tax credit prioritizes original Québec productions, the government introduced a new base rate for a film adapted from a foreign format.

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<sup>56</sup> The expression “film” includes a television program.

<sup>57</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2015-2016 – Additional Information 2015-2016*, March 26, 2015, pp. A.84-A.90.

Consequently, a film, including a television program, that is not developed from a foreign format benefits from a higher base rate than a film adapted from a foreign format.

When the March 2018 Québec Economic Plan was tabled,<sup>58</sup> it was announced that a film whose primary market is online broadcasting would be eligible for the tax credit. However, the online market is also used to broadcast films adapted from a foreign format.

So that the tax assistance provided by means of the tax credit will continue to prioritize original Québec productions, the *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter, the “sectoral act”) will be amended so that the conditions defining a film adapted from a foreign format in the case of a film whose primary market is the television market also apply to a film whose primary market is the online broadcasting market.

More specifically, a film whose primary market is the television market or the online broadcasting market will be a film adapted from a foreign format if a licence for adaptation in Québec was issued for the film and the film grew out of an audiovisual concept especially designed and arranged for television or online broadcasting and created outside Québec. For greater clarity, the licence must continue to specify the format elements of the program or of the episodes that will form a series, such as the title, idea, structure and subjects, the description of the plot and characters, the target audience and the duration of each episode.

This change will apply to a film or television production for which an application for an advance ruling, or an application for a qualification certificate if no application for an advance ruling was previously filed for the production, is filed with SODEC after the day of the budget speech.

### **1.7.2 Change to the requirements for application of the higher rate for a French-language film**

The refundable tax credit for Québec film or television production includes several base rates. In particular, the 40% and 36% base rates apply to the labour expenditure related to the production of certain films provided they are in French.

When the March 2018 Québec Economic Plan was tabled,<sup>59</sup> the tax credit was changed so that a film whose primary market is online broadcasting is also eligible.

To further encourage French-language film productions, the sectoral act will be amended so that, like films whose primary market is television broadcasting, certain French-language films whose primary market is online broadcasting will benefit from the higher base rate for French-language film productions.

Furthermore, a clarification will be made to the sectoral act so that the value of the licences granted to a distributor are considered in the financial structure for the purposes of screenwriting and exploitation requirements that a film must meet.

<sup>58</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2018-2019*, March 27, 2018, pp. A.86-A.90.

<sup>59</sup> Ibid.

Consequently, in the case of a film whose primary market is the television market or the online broadcasting market, it must be written and developed in French and its financial structure, including the value of the television and online broadcasting licences granted to a distributor, must include a minimum of 51% in French-language television and online broadcasting licences. In addition, the film's initial broadcast or first online presentation in Québec must be in French.

For greater clarity, no change is made to the classes of films eligible for the higher rate for French-language film production.

These amendments will apply to a film or television production for which an application for an advance ruling, or an application for a qualification certificate if no application for an advance ruling was previously filed for the production, is filed with to SODEC after the day of the budget speech.

### 1.7.3 Excluded amounts of assistance

Briefly, the amount of labour expenditures and production costs for the purposes of calculating the tax credit must be reduced by any government assistance and non-government assistance, except an excluded amount, that a qualified corporation received or is entitled to receive. In general, financial assistance from a public body in the cultural sector is an excluded amount of assistance that does not reduce the amount of such qualified expenditures.

#### ☐ Addition of excluded amounts of assistance

When the March 2016 Québec Economic Plan was tabled,<sup>60</sup> the tax legislation was amended to exclude the amount of financial assistance granted by the Ville de Québec under its Soutien à la production cinématographique et télévisuelle program.

However, on March 7, 2019, the Ville de Québec modified the financial assistance it provided for film and television production by introducing two new programs. Thus, in partnership with the Ministère de la Culture et des Communications, the Soutien à la production de courts métrages et de webséries program and the Soutien à la production de longs métrages et de séries télévisées program were created. The latter program also partners with the Secrétariat à la Capitale-Nationale.

So that the different sources of funding in the cultural sector will remain complementary, amendments will be made to the tax legislation so that these amounts of assistance will be excluded.

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<sup>60</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2016-2017*, March 17, 2016, pp. A.71-A.72.



More specifically, the tax legislation will be amended so that financial assistance granted under the Soutien à la production de courts métrages et de webséries program by the Ville de Québec in partnership with the Ministère de la Culture et des Communications and under the Soutien à la production de longs métrages et de séries télévisées program by the Ville de Québec in partnership with the Ministère de la Culture et des Communications and the Secrétariat à la Capitale-Nationale are excluded amounts of assistance for the purposes of the refundable tax credit for Québec film or television production.

This amendment will apply to financial assistance granted after March 6, 2019.

## **❑ National Film Board of Canada**

When the March 2018 Québec Economic Plan was tabled,<sup>61</sup> changes were announced in respect of excluded amounts of assistance relating to the National Film Board of Canada.

More specifically, it was announced that the amount corresponding to the fair market value of assistance granted by the National Film Board in the form of property or services would constitute an excluded amount of assistance for the purposes of the refundable tax credit for Québec film or television production.

However, according to Revenu Québec's position, the assistance granted by the National Film Board in the form of property or services does not reduce the amount of expenditures for the purposes of this tax credit.

Given that Revenu Québec's position is congruent with fiscal policy, no legislative amendment is required.

## **1.8 Increase in the refundable tax credit for sound recordings**

The refundable tax credit for sound recordings is calculated on the labour expenditures attributable to services provided in Québec for the production of qualified sound recordings, qualified digital audiovisual recordings and qualified clips (hereinafter, "qualified property"). In general, the qualified property eligible for this tax credit is property having a high Québec content.

The tax credit is equal to 35% of the amount of qualified labour expenditures, which are, however, capped by a limit corresponding to 50% of the production costs of the sound recording, digital audiovisual recording or clip.

However, technological progress and the arrival of non-stop distribution platforms have profoundly transformed the Québec sound recording industry, which is now facing major challenges.

To further encourage the growth of this rapidly changing industry, the tax legislation will be amended to raise the limit on labour expenditures eligible for the refundable tax credit for sound recordings to 65% of the production costs of a qualified property.

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<sup>61</sup> See note 58, pp. A.90-A.91.

This amendment will apply in respect of a qualified property for which an application for an advance ruling, or an application for a qualification certificate if no application for an advance ruling was previously filed, is filed with the Société de développement des entreprises culturelles after the day of the budget speech.

## **1.9 Increase in the refundable tax credit for the production of performances**

The refundable tax credit for the production of performances is calculated on the labour expenditures attributable to services provided for the production of qualified performances. This tax credit is intended for musical, live theatre, comedy, mime, magic, circus, aquatic and ice shows. In general, the qualified performances eligible for this tax credit are performances that have a high Québec content.

The refundable tax credit for the production of performances is equal to 35% of the amount of qualified labour expenditures, which are, however, capped by a limit corresponding to 50% of the production costs of the performance.

Furthermore, the maximum credit in respect of a qualified performance is:

- \$1.25 million where the qualified performance is a musical comedy;
- \$350 000 where the qualified performance is a comedy show;
- \$750 000 in other cases.

However, labour expenditures have increased in recent years, with the result that the 50% limit no longer reflects the share of labour expenditures in the total production costs of a performance.

To further support the creation of performances and better reflect the reality of the industry, the tax legislation will be amended to raise the limit of the qualified labour expenditures for the refundable tax credit for the production of performances to 65% of the production costs of the performance.

For greater clarity, the maximum amounts of the tax credit in respect of a qualified performance, whether it is a musical comedy, a comedy show or any other show, remain unchanged.

This change will apply in respect of a performance whose first eligibility period ends after the day of the budget speech and for which an application for an advance ruling, or an application for a qualification certificate if no application for an advance ruling was previously filed for that period, is filed with the Société de développement des entreprises culturelles after that day.

## **1.10 Change to the notion of interactivity for the purposes of the refundable tax credits for multimedia titles**

In the May 9, 1996 budget speech,<sup>62</sup> the first refundable tax credit for multimedia titles (hereinafter, the “tax credit – general component”) was introduced. A corporation that wishes to receive this tax assistance must obtain the required certificates regarding each multimedia title it produces.

Subsequently, in the March 31, 1998 budget speech,<sup>63</sup> a second refundable tax credit applying to corporations whose activities consist essentially in producing multimedia titles was introduced (hereinafter, the “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 based on the qualified labour expenditure incurred by the corporation.

Briefly, 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 an eligible multimedia title, as well as the portion of the consideration the corporation paid under a service contract for such work that can reasonably be attributed to salaries or wages related to such work.

The base rate of these tax credits is 26.25% and is raised to 30% where the title is intended for commercialization, is not available in a French version and is not a vocational training title. The 30% rate can be raised to 37.5% where the title is intended for commercialization, is available in a French version and is not a vocational training title.

For a multimedia title to be an eligible multimedia title for the purposes of these two tax credits, it must, in particular, contain a substantial volume of three of the following four types of information, in digital form: text, sound, still images and animated images. It must also be published on an electronic medium and controlled by software allowing interactivity.

A title is considered to be controlled by software allowing interactivity if the user participates in the action of the title. To determine whether this condition is met, the following elements must be taken into account: the feedback capability of the title, the control that the user may exert on the action of the title and the adaptation potential of the title to the user's needs.

This interactivity requirement is aimed at ensuring that the user of the multimedia title is a genuine participant in the action of the title and not a mere reader or viewer.

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<sup>62</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1996-1997 – Budget Speech and Additional Information*, May 9, 1996, Appendix A, pp. 45-48.

<sup>63</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *1998-1999 Budget – Additional Information on the Budgetary Measures*, March 31, 1998, Section 1, pp. 46-50.

However, a multimedia title may have different levels of interactivity. To specify the level of interactivity required for a multimedia title to be recognized by Investissement Québec as an eligible multimedia title for the purposes of both the tax credit – general component and the tax credit – specialized component, an amendment will be made to the *Act respecting the sectoral parameters of certain fiscal measures*.

A title may thus be considered to be controlled by software allowing interactivity if the conditions respecting the user's participation in the action of the title are met for all or substantially all of the action.

## **❑ Application date**

This amendment will apply, in respect of both the tax credit – general component and the tax credit – specialized component, to an application for a certificate filed with Investissement Québec after the day of the budget speech for a taxation year beginning after that day.

### **1.11 Change in activities eligible for the tax credits for the development of e-business**

The refundable tax credit for the development of e-business<sup>64</sup> was introduced to provide tax assistance to specialized businesses that carry out innovative, high value-added activities related to e-business in the information technology sector, chiefly in the fields of computer systems design and software publishing.

In addition, it is aimed at consolidating the information technology sector throughout Québec and supporting the growth of Québec businesses in all activity sectors that want to become more efficient and productive by incorporating into their business processes information technologies developed by specialized businesses.

The non-refundable tax credit for the development of e-business<sup>65</sup> was introduced, among other things, to contribute more to keeping high value-added jobs in the information technology sector in Québec.

Thus, the tax assistance for the development of e-business (TCEB) comprises a refundable tax credit at the rate of 24%, which may not exceed \$20 000 per employee per year, and a non-refundable tax credit at the rate of 6%, which may not exceed \$5 000 per employee per year. It is calculated on salaries paid by a qualified corporation to eligible employees carrying out an eligible activity.

A corporation wishing to claim the TCEB, for a taxation year, must, in particular, obtain from Investissement Québec a corporation certificate certifying that the corporation meets, for the year, the criteria relating to activities, the criterion relating to services supplied and the criterion relating to maintenance of a minimum number of jobs.

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<sup>64</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *2008-2009 Budget – Additional Information on the Budgetary Measures*, March 13, 2008, pp. A.79-A.85.

<sup>65</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2015-2016 – Additional Information*, March 26, 2015, pp. A.83-A.84.

It must also obtain, for the taxation year, a certificate for each of its employees for which it wishes to claim the TCEB. This certificate certifies that the individual named therein meets, in particular, the requirements for the duties he or she performs in connection with activities eligible for the TCEB.

In this regard, each of the following activities constitutes an eligible activity for the purposes of the TCEB:

- information technology consulting services relating to technology or systems development, or consulting services in e-business processes and solutions, to the extent that the consulting services relate to an activity described below;
- the development or integration of information systems or of technology infrastructures, as well as, to the extent that it is incidental to such a development or integration activity carried on by the corporation, any activity relating to the maintenance or evolution of such information systems or such technology infrastructures;
- the design or development of e-commerce solutions allowing a monetary transaction between the person on behalf of whom the design or development is carried out and that person's customers;
- the development of security and identification services.

These activities must, in particular, be primarily related to e-business.<sup>66</sup>

Various changes have been made to the TCEB since it was introduced to protect its integrity and ensure that this fiscal measure contributes to achieving the government's economic objectives.

To refocus the TCEB on high value-added activities in the information technology sector, a change will be made to the activities that are eligible activities for the purposes of the TCEB.

More specifically, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that an activity involving the design or development of e-commerce solutions allowing a monetary transaction between the person on behalf of whom the design or development is carried out and that person's customers<sup>67</sup> will no longer be an eligible activity for the purposes of the TCEB.

However, such an activity involving the design or development of e-commerce solutions may be an eligible activity if it is incidental to an eligible activity relating to the development or integration of information systems or of technology infrastructures.

<sup>66</sup> The *Act respecting the sectoral parameters of certain fiscal measures* lists activities that are not eligible activities for the purposes of the TCEB (Schedule A, s. 13.12).

<sup>67</sup> *Act respecting the sectoral parameters of certain fiscal measures*, Schedule A, s. 13.11, 1st par., subpar. 3.

## ❑ Application date

This change will apply to a taxation year of a corporation beginning after the day of the budget speech.

### 1.12 Changes to the compensation tax for financial institutions

Financial institutions must pay, for a taxation year, a compensation tax that is calculated using two tax bases—amounts paid as wages and insurance premiums (including amounts established in respect of insurance funds).

Various changes have been made to the compensation tax for financial institutions in recent years. The most recent changes were made when the March 2018 Québec Economic Plan was tabled.<sup>68</sup>

At that time, it was announced that the compensation tax rates applicable to amounts paid as wages would be adjusted and, where the financial institution is a financial institution throughout a taxation year, that the amounts paid as wages on which it is required to pay a compensation tax, for the taxation year, would be limited based on a maximum amount subject to tax determined according to the category to which the financial institution belongs.

Consequently, the rates applicable to the two tax bases of the compensation tax for financial institutions are:

- for amounts paid as wages:
  - in the case of a bank, loan corporation, trust corporation or corporation trading in securities, 4.22% for the period from April 1, 2019 to March 31, 2020, 4.14% for the period from April 1, 2020 to March 31, 2022 and 2.80% for the period from April 1, 2022 to March 31, 2024,
  - in the case of a savings and credit union, 3.30 % for the period from April 1, 2019 to March 31, 2020, 3.26% for the period from April 1, 2020 to March 31, 2022 and 2.20% for the period from April 1, 2022 to March 31, 2024,
  - in the case of any other person,<sup>69</sup> 1.34% for the period from April 1, 2019 to March 31, 2020, 1.32% for the period from April 1, 2020 to March 31, 2022 and 0.90% for the period from April 1, 2022 to March 31, 2024;
- for insurance premiums and amounts established in respect of an insurance fund, 0.48 % for the period from April 1, 2019 to March 31, 2022 and 0.30% for the period from April 1, 2022 to March 31, 2024.

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<sup>68</sup> See note 58, pp. A.116-A.124.

<sup>69</sup> This category excludes an insurance corporation and a professional order that has set up an insurance fund under section 86.1 of the Québec *Professional Code* (CQLR, chapter. C-26). Also, a financial corporation that has not made the joint election provided for in section 150 of the *Excise Tax Act* with a financial institution included in another category is no longer subject to the compensation tax as of January 1, 2013.

The maximum amount subject to tax, for a taxation year, of a person that is a financial institution throughout the taxation year corresponds to the following amount applicable, calculated on an annual basis:

- in the case of a bank, a loan corporation, a trust corporation or a corporation trading in securities: \$1.1 billion;
- in the case of a savings and credit union: \$550 million;
- in the case of any other person: \$275 million.

Loan corporations, trust corporations and corporations trading in securities are subject to the rate of the compensation tax for financial institutions and the maximum amount subject to tax applicable to banks, without regard to whether they are associated with such an entity or other large financial institution.

To take into account the situation of loan corporations, trust corporations and corporations trading in securities that are not part of a group including a bank or other large financial institution, which is distinct from the situation of loan corporations, trust corporations and corporations trading in securities that are part of such a group, changes will be made to the compensation tax for financial institutions.

Thus, the tax legislation will be amended so that the compensation tax rates of 4.14% for the period from April 1, 2020 to March 31, 2022 and 2.80% for the period from April 1, 2022 to March 31, 2024, as well as the maximum amount subject to tax of \$1.1 billion, apply to a bank, loan corporation, trust corporation and corporation trading in securities, excluding an independent loan corporation, independent trust corporation and independent corporation trading in securities. The latter corporations will be subject to the compensation tax for financial institutions calculated on the amount paid as wages at the rates applicable to other persons and the amount on which they will be required to pay the compensation tax will be limited based on the maximum amount subject to tax applicable to the other persons.

In this respect, the expression “independent loan corporation” will mean, for a taxation year, a loan corporation, as the expression is defined for the purposes of the provisions respecting the compensation tax for financial institutions,<sup>70</sup> that, in the year, is not associated with a bank, savings and credit union or insurance corporation.

Likewise, the expression “independent trust corporation” will mean, for a taxation year, a trust corporation, as the expression is defined for the purposes of the provisions respecting the compensation tax for financial institutions,<sup>71</sup> that, in the year, is not associated with a bank, savings and credit union or insurance corporation.

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<sup>70</sup> *Taxation Act*, s. 1159.1.

<sup>71</sup> *Ibid.*

Finally, the expression “independent corporation trading in securities,” for a taxation year, will mean a corporation trading in securities, as the expression is defined for the purposes of the provisions respecting the compensation tax for financial institutions,<sup>72</sup> that, in the year, is not associated with a bank, savings and credit union or insurance corporation.

These changes will apply as of April 1, 2020.

Consequently, an independent loan corporation, independent trust corporation or independent corporation trading in securities will be subject to the compensation tax for financial institutions, as of April 1, 2020, at the following rates:

- for the period from April 1, 2020 to March 31, 2022: 1.32%;
- for the period from April 1, 2022 to March 31, 2024: 0.90%.

Also, the maximum amount subject to tax that will be applicable to those corporations, as of April 1, 2020, will be \$275 million.

Thus, where the taxation year of an independent loan corporation, independent trust corporation or independent corporation trading in securities includes April 1, 2020, the amount it will be required to pay on account of the compensation tax, for that taxation year, on the amounts paid as wages for the year will correspond to the aggregate of the following amounts:

- an amount equal to the product obtained by multiplying, by a rate of 4.22%, the following amount applicable:
  - in the case of a corporation that is a financial institution throughout the year, the lesser of the following amounts:
    - the total of amounts paid as wages during the part of the corporation's taxation year preceding April 1, 2020,
    - the product obtained by multiplying the \$1.1-billion maximum amount subject to tax by the proportion that the number of days in the corporation's taxation year preceding April 1, 2020 is of 365,
  - in all other cases, the total of amounts paid as wages during the part or parts of the corporation's taxation year preceding April 1, 2020 during which it is a financial institution;
- an amount equal to the product obtained by multiplying, by a rate of 1.32%, the following amount applicable:
  - in the case of a corporation that is a financial institution throughout the year, the lesser of the following amounts:
    - the total of amounts paid as wages during the part of the corporation's taxation year following March 31, 2020,

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<sup>72</sup> Ibid.



- the product obtained by multiplying the \$275-million maximum amount subject to tax by the proportion that the number of days in the corporation's taxation year following March 31, 2020 is of 365,
- in all other cases, the total of amounts paid as wages during the part or parts of the corporation's taxation year following March 31, 2020 during which it is a financial institution.

## ■ Instalment payments

The instalment payments of an independent loan corporation, independent trust corporation or independent corporation trading in securities can be adjusted, as necessary, as of the first payment following March 31, 2020, in accordance with the usual rules, in order to take into account the changes to the rate of the compensation tax for financial institutions and to the maximum amount subject to tax that is applicable to them.

### 1.13 Extension of the income-averaging mechanism and the carry-over period for certified forest producers in respect of a private forest

To encourage private forest owners to actively manage their forest lands with a view to marketing timber, an income-averaging mechanism for certified forest producers in respect of a private forest was introduced on a temporary basis in the March 2016 Québec Economic Plan.<sup>73</sup>

Briefly, this mechanism makes it possible, for the purposes of income tax and the individual contribution to the Health Services Fund, to average a portion of the income generated by non-retail sales of timber produced in a private forest for a period not exceeding seven years.

An eligible individual or a qualified corporation which, at the end of a particular taxation year ending after March 17, 2016 and before January 1, 2021, is either a certified forest producer in respect of a private forest or a member of a partnership that is a certified forest producer in respect of a private forest can thus deduct, in calculating the taxable income for the year, an amount not exceeding 85% of the lesser of \$200 000 or the income—or the share of the income of the partnership—generated by non-retail sales of timber produced in a private forest for that taxation year.

For sales of timber that were made by a certified forest producer in respect of a private forest and are subject to the income-averaging mechanism, taxation of the amount so deducted can be averaged over a period not exceeding seven years. However, for each of the first six taxation years following the year for which the deduction was claimed, the taxpayer must include, in the calculation of the taxpayer's taxable income, at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included. In the seventh year following the year for which the deduction was claimed, the taxpayer must include the portion of the amount deducted that has not yet been included.

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<sup>73</sup> See note 60, pp. A.44-A.49.

An individual, corporation or partnership, as applicable, is considered to be a certified forest producer at any time in respect of a private forest if the individual, corporation or partnership holds, at that time, a certificate as a certified forest producer issued under the *Sustainable Forest Development Act*<sup>74</sup> in respect of that private forest.

Briefly, to be certified as a forest producer under that Act, a forest owner must own a forest area of not less than four hectares (10 acres or 12 “arpents carrés”) having a forest management plan that is certified by a forest engineer as complying with the by-laws of the regional agency for private forest development having jurisdiction over the territory. Also, in the case of a private forest consisting of a single block of 800 hectares or more, the owner must be a member in good standing of a forest fire protection organization.

So that private forests can contribute more to supplying Québec timber processing plants over the coming years and a greater number of private forest owners will actively manage their forest lands, the income-averaging mechanism for certified forest producers in respect of a private forest is extended for a five-year period. Also, the carry-over period is increased to ten years. These changes apply for the purposes of both income tax and the individual contribution to the Health Services Fund.

Thus, the tax legislation will be amended so that an eligible individual or qualified corporation that, at the end of a particular taxation year ending on or after the day of the budget speech but before January 1, 2026, is either a certified forest producer in respect of a private forest or a member of a partnership that is a certified forest producer in respect of a private forest can deduct, in calculating the individual's or corporation's taxable income for the year, an amount not exceeding 85% of the lesser of \$200 000 or the income—or the share of the income of the partnership—generated by non-retail sales of timber produced in a private forest for that taxation year.

Also, in respect of sales of timber that were made by a certified forest producer in respect of a private forest, that are subject to the income-averaging mechanism and that were completed on or after the day of the budget speech but before January 1, 2026, taxation of the amount so deducted can be spread over a period not exceeding ten years. For each of the ten taxation years following the year for which the deduction has been claimed, the taxpayer must include, in the calculation of the taxable income, at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included.

For greater clarity, sales of timber made by a certified forest producer in respect of a private forest, completed after March 17, 2016 and before the day of the budget speech, will continue to benefit from the seven-year averaging period.

The other terms and conditions of the income-averaging mechanism for certified forest producers in respect of a private forest will remain unchanged.

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<sup>74</sup> CQLR, chapter A-18.1.

## 1.14 Elimination of tax measures

### 1.14.1 Deduction for innovative manufacturing corporations

In the March 17, 2016 budget speech, a deduction for innovative manufacturing corporations (DIC) was introduced to better support them in their innovation efforts.<sup>75</sup>

Briefly, the DIC is designed to encourage a qualifying innovative manufacturing corporation to develop in Québec the results of scientific research and experimental development work (R&D) that it carried out in Québec and that led to the granting of a patent, by enabling the corporation to reduce its taxable income, for a taxation year beginning after December 31, 2016, by an amount equal to a portion of the value of a qualified patented feature that is integrated into qualified property it sells or rents for the year.

For the purposes of the DIC, a qualifying innovative manufacturing corporation means a corporation at least 50% of whose activities consist in activities in the manufacturing and processing sector carried out in Québec and whose paid-up capital is at least \$15 million.

A qualified patented feature, for a particular taxation year, means an invention for which the corporation holds a patent, alone or with other persons, under the *Patent Act*<sup>76</sup> or any other law of country or state other than Canada. An invention that constitutes a qualified patented feature must result, in whole or in part, from R&D work that was carried out in Québec by the qualified innovative manufacturing corporation, or by a corporation with which it was associated at the time the work was carried out.

Taking into account the replacement of the DIC by the incentive deduction for commercialization of innovations in Québec,<sup>77</sup> the DIC will be eliminated for a corporation whose taxation year begins after December 31, 2020.

### 1.14.2 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.<sup>78</sup> Changes were subsequently made to this tax credit, among other things, so that primary sector businesses and wholesale and retail sector businesses could be eligible for it.

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<sup>75</sup> See note 60, pp. A.49-A.56.

<sup>76</sup> R.S.C. 1985, c. P-4.

<sup>77</sup> See subsection 1.3.

<sup>78</sup> MINISTÈRE DES FINANCES ET DE L'ÉCONOMIE DU QUÉBEC, *Information Bulletin 2013-10*, October 7, 2013, pp. 28-33.

Briefly, a qualified corporation<sup>79</sup> may claim the refundable tax credit relating to IT integration in respect of its expenditures relating to the supply of a qualified management software package.

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

The total amount of the refundable tax credit that a qualified corporation may claim, for the duration of the tax credit, in respect of one or more eligible IT integration contracts, as applicable, is limited to \$50 000.<sup>80</sup>

When *Information Bulletin 2019-11*<sup>81</sup> was published, the duration of the tax credit was extended by one year. Thus, the application for the issuing of a certificate for an IT integration contract must, in particular, be submitted before the contract is entered into and before January 1, 2021. Also, the expenditures relating to the IT integration contract must, among other things, be incurred before January 1, 2021 to give entitlement to the tax credit.

In view of the introduction of the new tax credit for investments and innovation,<sup>82</sup> the refundable tax credit relating to IT integration will be eliminated.

Thus, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that Investissement Québec cannot accept an application for a certificate in respect of an IT integration contract if the application is submitted after the day of the budget speech.

However, Investissement Québec may exceptionally accept an application for a certificate in respect of an IT integration contract submitted after the day of the budget speech if the application meets the following conditions:

- the written prior agreement respecting the IT integration contract of the corporation or partnership was entered into no later than the day of the budget speech and meets the conditions otherwise established;

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<sup>79</sup> A qualified corporation that is a member of a qualified partnership at the end of the partnership's fiscal period ended in a taxation year can also claim, on certain conditions, the refundable tax credit relating to IT integration for the year in respect of its share of the partnership's eligible expenses for that fiscal period.

<sup>80</sup> In the case of a 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 and are related 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.

<sup>81</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2019-11*, December 16, 2019, pp. 15-16.

<sup>82</sup> See subsection 1.1.

- the application for the issuing of the eligibility certificate in respect of the contract to be entered into by the corporation or partnership is submitted to Investissement Québec before July 1, 2020.

Thus, a qualified corporation that holds a valid certificate issued by Investissement Québec for an IT integration contract and meets the conditions otherwise established will be able to claim the refundable tax credit relating to IT integration in accordance with the current terms and conditions. The same holds true for a corporation that is a member of a qualified partnership that holds a valid certificate issued by Investissement Québec for an IT integration contract and meets the conditions otherwise established.

### **1.14.3 Tax-free reserve for Québec shipowners**

On June 4, 2014, the measure respecting the tax-free reserve for Québec shipowners was announced to encourage these shipowners to use Québec shipyards to carry out construction, maintenance or renovation work on the vessels in their fleet.<sup>83</sup>

Briefly, a qualified shipowner may create a tax-free capital reserve to help pay the costs of the carrying out of maintenance or renovation work on qualified vessels in the shipowner's fleet or construction work on qualified vessels by the operator of a qualified shipyard.

The shipowner must first obtain a qualification certificate showing that it operates, in the course of its business, one or more qualified vessels in respect of which it wishes to set up a fund for the work it plans to have the operator of a qualified shipyard carry out on its qualified vessels.

A qualified shipowner can thus enjoy a tax holiday for a taxation year in respect of amounts of interest, dividends and capital gains realized for that year attributable to the capital in the tax-free reserve. This tax holiday takes the form of a deduction in the calculation of the shipowner's taxable income for that taxation year.

The amounts corresponding to interest, dividends and capital gains generated by that capital must be kept in the tax-free reserve and, barring exceptions, must not be used for any purpose other than paying the cost of maintenance, renovation or construction work on a qualified vessel of the shipowner entrusted to the operator of a qualified shipyard.

A qualified shipowner's tax-free reserve must end no later than December 31, 2033.

Analysis of the results of this measure since it was introduced shows that it does not fulfill a need for the businesses concerned, given that no corporation has benefited from it since it was introduced.

In this context, the tax-free reserve for Québec shipowners will be eliminated as of the day following the day of the budget speech.

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<sup>83</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2014-2015 – Additional Information on the Fiscal Measures of the Budget*, June 4, 2014, pp. 15-19.

Thus, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that the Minister of Economy and Innovation cannot accept an application for the issuing of a qualification certificate from a qualified shipowner if the application is submitted after the day of the budget speech.

However, a qualified shipowner that holds a valid qualification certificate issued by the Minister of Economy and Innovation and meets the conditions otherwise established, will be able, for a taxation year ended after the day of the budget speech, to deduct in the calculation of its taxable income an amount on account of the tax-free reserve for qualified shipowners in accordance with the current terms and conditions.

## 2. MEASURES CONCERNING INDIVIDUALS

### 2.1 Introduction of a refundable tax credit for caregivers

In fall 2018, the government launched a consultation aimed at developing a national policy on caregivers in accordance with its commitment to support such persons. This policy is expected to be unveiled in 2020.

The government is therefore announcing the immediate introduction of a new refundable tax credit for caregivers. The government is seeking, by means of this tax credit, to acknowledge the essential contribution of caregivers to Québec society by making such assistance more easily accessible and enhancing it in comparison to existing measures.

The new refundable tax credit for caregivers is meant as further step toward improving the support offered to such persons. Several enhancement and simplification measures will be introduced with this new credit to increase the number of caregivers who will be able to benefit from it.

Thus, in 2020, the four existing components of the tax credit for informal caregivers of persons of full age will be replaced by the new refundable tax credit, called the “tax credit for caregivers,” comprising the following two components:

- component 1: universal basic tax assistance of \$1 250 (in the case of co-residency) and reducible assistance of \$1 250 (no co-residency requirement) for a caregiver providing care to a person aged 18 or older who has a severe and prolonged impairment and needs assistance in carrying out a basic activity of daily living;
- component 2: universal tax assistance of \$1 250 for a caregiver who supports and co-resides with a relative aged 70 or older.

#### **□ Streamlined and enhanced tax assistance**

Introduced in Budget 2005-2006<sup>84</sup> to better recognize the role played by the extended family in the process of providing support to seniors and to persons having a severe and prolonged impairment, the refundable tax credit for informal caregivers of persons of full age replaced various measures. It was then based solely on a criterion respecting housing of the carereceiver.

In Budget 2011-2012<sup>85</sup> the components respecting co-residency with an eligible relative unable to live alone who is either a spouse aged 70 or older or a person of full age having a severe and prolonged impairment were introduced, thereby increasing to three the number of components in the tax credit for informal caregivers of a person of full age.

<sup>84</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *2005-2006 Budget – Additional Information on the Budgetary Measures*, April 21, 2005, Section 1, pp. 6-11.

<sup>85</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *2011-2012 Budget – Budget Plan*, March 17, 2011, pp. J.8-J.11.

A fourth component was added to the tax credit in Budget 2018-2019<sup>86</sup> for informal caregivers who, without housing or co-residing with an eligible relative, provide support to the relative on a regular and continuous basis.

Thus, the refundable tax credit for informal caregivers of persons of full age currently has the following four components:

- component 1: an informal caregiver housing a person of full age who is an eligible relative aged 70 or older or has a severe and prolonged impairment, providing universal basic assistance of \$674 and reducible assistance of \$551;<sup>87</sup>
- component 2: an informal caregiver co-residing with a person of full age who is an eligible relative having a severe and prolonged impairment and is unable to live alone, providing universal basic assistance of \$674 and reducible assistance of \$551;<sup>88</sup>
- component 3: an informal caregiver co-residing with a spouse aged 70 or older who has a severe and prolonged impairment and is unable to live alone, providing only universal assistance of \$1 050;<sup>89</sup>
- component 4: an informal caregiver of a person of full age who is an eligible relative having a severe and prolonged impairment and needs assistance in carrying out a basic activity of daily living, with no co-residency requirement, providing only reducible assistance of \$551.<sup>90</sup>

To achieve certain objectives identified by the consultation on caregivers, the following changes will be made to the tax assistance:

- the new component 1 of the new tax credit for caregivers will subsume the old components 2 to 4 and a part of component 1 of the old tax credit;
- the new component 2 of the new tax credit will replace a part of component 1 of the old tax credit, that is, the part based on the housing of an eligible relative aged 70 or older.

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<sup>86</sup> See note 58, pp. A.27-A.32.

<sup>87</sup> The provisions of the *Taxation Act* relating to this component are in sections 1029.8.61.61 to 1029.8.61.70.

<sup>88</sup> The provisions of the *Taxation Act* relating to this component are in sections 1029.8.61.83 to 1029.8.61.90.

<sup>89</sup> Also referred to as the “informal caregiver who cares for a spouse” component. The provisions of the *Taxation Act* relating to this component are in sections 1029.8.61.91 to 1029.8.61.96.

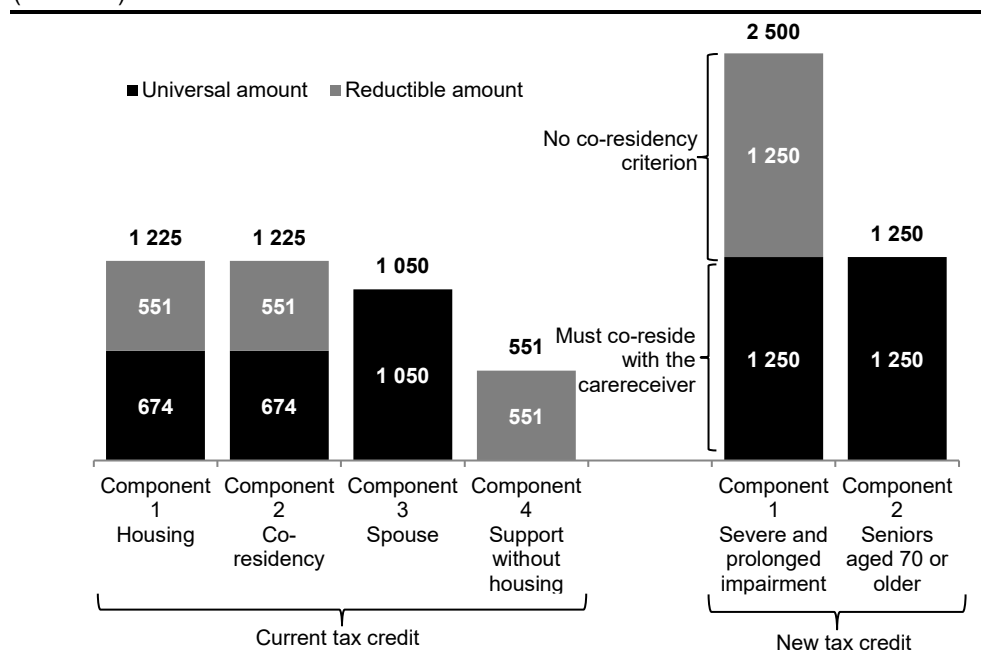
<sup>90</sup> Also referred to as the “informal caregiver supporting an eligible relative with no co-residency requirement” component. The provisions of the *Taxation Act* relating to this component are in sections 1029.8.61.96.1 to 1029.8.61.96.9.



The following graph illustrates the current situation and the two new components of the new credit.

CHART A.1

**Current tax credit and new tax credit**  
(in dollars)



**❑ Individuals eligible for the new tax credit for caregivers**

An individual who is resident in Québec at the end of a particular year<sup>91</sup>—or, if the individual dies in the year, on the date of the individual's death—will be able to claim, for that year, a refundable tax credit of \$1 250 in respect of each person qualifying as an eligible carereceiver throughout the minimum period of the individual's co-residency<sup>92</sup> with that person. This basic assistance will apply for both component 1 and component 2 of the new tax credit.

<sup>91</sup> At the end of December 31 of the particular year.

<sup>92</sup> For the purposes of the new refundable tax credit for caregivers, the caregiver and the eligible carereceiver are in co-residency where they ordinarily live together in the same self-contained domestic establishment that is owned, co-owned, leased, co-leased or subleased by one of them, or by the spouse of one of them, if the spouse lives with them.

However, an individual cannot claim the tax credit, for a particular taxation year, if the individual is a dependant of another person for the particular year<sup>93</sup> or if the individual receives remuneration in any form whatsoever for the assistance the individual provides to the eligible carereceiver.

Nor can an individual claim the tax credit for caregivers if the individual is himself or herself an eligible carereceiver of a caregiver who will claim the refundable tax credit for caregivers in his or her respect.

Likewise, an individual will not be entitled, for a particular taxation year, to the tax credit for caregivers in respect of an eligible carereceiver if the individual or the person who is the individual's spouse, during the minimum co-residency or assistance period that is applicable to the eligible carereceiver for the year, is exempt from tax for the year.

Furthermore, note that component 1 of the new tax credit will give entitlement to a reducible additional amount of up to \$1 250. This assistance will be in addition to the basic assistance if the caregiver co-resides with the eligible carereceiver. However, if the caregiver does not co-reside with the eligible carereceiver, this assistance will be the only amount to which the caregiver will be entitled in respect of that person.

#### **❑ Amounts of the tax credit according to the new components<sup>94</sup>**

The government prioritizes harmonization in regard to the amounts paid in respect of the universal basic assistance provided where the caregiver co-resides with the eligible carereceiver.

In other words, for the purposes of both component 1 and component 2 of the new tax credit, a caregiver will be entitled to a non-reducible universal amount of \$1 250 where the caregiver co-resides in the same self-contained domestic establishment as the eligible carereceiver, provided the caregiver meets the other criteria giving rise to the tax credit.

Under component 1 of the new tax credit, the caregiver of an eligible carereceiver aged 18 or older who has a severe and prolonged impairment in mental or physical functions and who, according to certification by a health professional, needs assistance in carrying out a basic activity of daily living will receive additional assistance of up to \$1 250 for the year, thereby raising the potential assistance under component 1 to \$2 500 if the caregiver co-resides with the eligible carereceiver.

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<sup>93</sup> As with the current tax credit, the caregiver will not be able to claim the new tax credit if another individual, other than the caregiver's spouse, deducted, in respect of the caregiver, one of the amounts provided for in any of sections 752.0.1 to 752.0.7, 752.0.11 to 752.0.18.0.1 and 776.41.14 of the *Taxation Act* covering, among other things, the following tax credits: tax credit respecting other dependants, tax credit attributable to the transfer of the recognized parental contribution, tax credit for medical expenses or tax credits relating to medical care not provided in the region of residence.

<sup>94</sup> These amounts will be adjusted each year as of 2021. Also, where the eligible carereceiver is aged 18 in the year, the amounts will be reduced to take into account the number of months during which the person was under 18. Likewise, the amount will be adjusted to take into account the additional social assistance benefits received for a handicapped child who is of full age and attends a secondary-level educational institution in general education.

However, if the caregiver does not co-reside with the eligible carereceiver, the only assistance to which the caregiver is entitled will be a reducible amount of up to \$1 250 under component 1 of the tax credit.

The \$1 250 amount will be reduced in the same way as is done currently, according to a rate of 16% for each dollar of the eligible carereceiver's income that exceeds the reduction threshold applicable for the year. For 2020, the reduction threshold is \$22 180.

Thus, in 2020, where the eligible carereceiver's net income is \$29 993 or more, a caregiver who does not co-reside with the eligible carereceiver will not receive any tax assistance, but a caregiver that does co-reside with the eligible carereceiver will receive the universal basic amount of \$1 250, provided the minimum co-residency period required for the purposes of the tax credit is respected.

### **❑ Notion of “eligible carereceivers”**

Currently, caregivers taking care of their spouse under age 70 and caregivers having no family relationship with a person receiving assistance cannot claim the refundable tax credit for informal caregivers of persons of full age, as only a spouse aged 70 or older and relatives having a family relationship qualify as eligible relatives for the purposes of the refundable tax credit for informal caregivers of persons of full age.

The government wishes to acknowledge the great dedication of a greater number of caregivers by broadening the notion of eligible relatives, who will be referred to as “eligible carereceivers” for the purposes of the new tax credit.

Thus, as of 2020, the tax credit will henceforth be open, under component 1, to caregivers providing assistance to the following eligible carereceivers:

- a spouse at least 18 years old, but under age 70, who has a severe and prolonged impairment in mental or physical functions and needs assistance in carrying out a basic activity of daily living;
- family member aged 18 or older who has a severe and prolonged impairment and needs assistance in carrying out a basic activity of daily living, even if he or she is able to live alone;
- a person aged 18 or older who has a severe and prolonged impairment and needs assistance in carrying out a basic activity of daily living, but has no family relationship with the caregiver, provided a professional of the health and social services network certifies that the caregiver is genuinely involved with the eligible carereceiver by providing the person with ongoing assistance in carrying out a basic activity of daily living.<sup>95</sup>

<sup>95</sup> For this purpose, a new prescribed form, to be signed by the three parties and supplementing the form for certifying an impairment (TP-752.0.14-V), will be created. This new form will be an certification of ongoing assistance. The characteristics the form must contain are described below.

More specifically, for the purposes of both component 1 and component 2 of the new refundable tax credit for caregivers, any person who is one of the following persons during the minimum co-residency or assistance period applicable for a year will be considered an “eligible carereceiver” of a caregiver throughout that period:

- the father, mother, grandfather, grandmother, uncle, aunt, great-uncle or great-aunt of the caregiver or of the caregiver's spouse; or
- any other direct ascendant of the caregiver or of the caregiver's spouse.

For greater clarity, despite the death of the individual who was the caregiver's spouse, that individual will be deemed, in order to determine whether a person is an eligible carereceiver of the caregiver, to be the caregiver's spouse.<sup>96</sup>

Also, for the purposes of both component 1 and component 2 of the new tax credit, the eligible carereceiver cannot be a person living in a dwelling located in a seniors' residence or in a facility of the public network, according to the same definitions of these notions as those applicable under the old tax credit.

### ■ Clarifications concerning the notion of “eligible carereceivers” according to the components

For the purposes of component 1 of the new tax credit:

- the following persons of full age will also be included among eligible carereceivers under component 1: the spouse as well as the child, grandchild, nephew, niece, brother and sister of the caregiver;
- the eligible carereceiver must be a person who has a severe and prolonged impairment as a result of which, as certified by a health professional,<sup>97</sup> he or she needs assistance in carrying out a basic activity of daily living;
- the eligible carereceiver can be a person having no family relationship with the caregiver if a duly completed certificate of ongoing assistance is filed with the caregiver's income tax return.<sup>98</sup>

For the purposes of component 2 of the new tax credit, the eligible carereceiver must be aged 70 or older and cannot be the caregiver's spouse.

### □ Minimum co-residency or assistance period

Currently, to be eligible for the tax credit for informal caregivers of persons of full age, housing, co-residency, support or assistance, as applicable, must have been continuous for at least 365 consecutive days beginning in the year or the preceding year, including at least 183 days during the year for which the tax credit is claimed.

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<sup>96</sup> For example, the mother of a caregiver's spouse will be able to continue to qualify as an eligible carereceiver of the caregiver following the death of the caregiver's spouse.

<sup>97</sup> The same health network professional can certify the severe and prolonged impairment in mental or physical functions and the need for assistance in carrying out a basic activity of daily living.

<sup>98</sup> According to the new form, which will be available in the coming months and must be filed along with the 2020 income tax return in spring 2021.

These requirements will continue to apply for the purposes of both components of the new tax credit, but certain adjustments must be made for greater flexibility in their application.

Firstly, the accumulated housing, co-residency, support or assistance periods for the purposes of the four components of the old tax credit, as applicable, will be counted for the purposes of the minimum co-residency or assistance period required under the two components of the new tax credit.

Also, to facilitate the granting of the tax credit for the year in which the death of the eligible carereceiver or of the caregiver occurs, the 183-day co-residency or assistance requirement will be eliminated for the year of death. Thus, provided a co-residency or assistance period of 365 consecutive days has been accumulated by the date of the eligible carereceiver's or the caregiver's death, the tax credit can be claimed for that year by the caregiver.

## **❑ Other terms and conditions**

To facilitate the transition between the old components of the previous tax credit and the two components of the new tax credit, various measures will be included in the tax legislation:

- persons who held a certificate respecting a severe and prolonged impairment<sup>99</sup> in mental or physical functions for the purposes of any of the four components of the old tax credit for informal caregivers will not be required to obtain a new certificate to qualify as an eligible carereceiver for the purposes of component 1 of the new tax credit;
- health professionals authorized to issue a certificate respecting a severe and prolonged impairment in mental or physical functions for the purposes of the components of the old tax credit will be the same persons who will be able to issue a certificate for the purposes of component 1 of the new tax credit;<sup>100</sup>
- the housing, co-residency, support or assistance periods completed for the purposes of the four components of the old tax credit will be counted for the purposes of the two components of the new tax credit;
- the tax credit for caregivers will be shareable, under either component, between the caregivers of an eligible carereceiver, provided each of the caregivers has assisted the eligible carereceiver or co-resided with the eligible carereceiver, as applicable, for at least 90 days during the year;

<sup>99</sup> According to form TP-752.0.14-V.

<sup>100</sup> The same health network professional may certify the severe and prolonged impairment in mental or physical functions and the need for assistance in carrying out a basic activity of daily living.

- if caregivers fail to agree on the portion of the amount of assistance that would be shareable, the Minister of Revenue can determine the portion attributable to each of them, with the understanding that a caregiver who co-resided with the eligible carereceiver will be prioritized for the purposes of granting the tax credit;
- to be entitled to the new refundable tax credit for caregivers, the caregiver must file with his or her income tax return, in addition to the applicable certificates required by the particular case, the prescribed form certifying the co-residency or assistance period, as applicable, and the other information necessary for the purposes of granting the tax credit.

**☐ New certificate of ongoing assistance required where the caregiver has no family relationship with the eligible carereceiver for the purposes of component 1 of the new tax credit**

In response to requests by various groups, the government agrees to recognize, in this budget, a new category of caregivers having no family relationship with the eligible carereceiver for the purposes of qualifying under component 1 of the new refundable tax credit for caregivers.

For this purpose, a new form for certification of ongoing assistance will be created. Revenu Québec and the Ministère de la Santé et des Services sociaux will work together to create this form.

This certificate, to be signed by the three parties, will be designed to enable the tax authorities to make sure that the caregiver designated by the eligible carereceiver is genuinely involved with that person and provides him or her with ongoing assistance in carrying out a basic activity of daily living.

Thus, this new certificate, which must be filed with Revenu Québec by the caregiver with his or her income tax return,<sup>101</sup> will have the following characteristics:

- the eligible carereceiver will designate therein the caregiver having no family relationship who provides him or her with ongoing assistance in carrying out a basic activity of daily living;
- an assistance starting date will be entered by the eligible carereceiver;
- the caregiver and the eligible carereceiver will sign the form;

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<sup>101</sup> For the first year of assistance and every third year thereafter.

- a professional of the health and social services network,<sup>102</sup> such as a social worker, will also sign the form and will confirm therein that the caregiver having no family relationship identified by the eligible carereceiver is the caregiver who provides him or her with ongoing assistance in carrying out a basic activity of daily living;
- an authorization will be given by the eligible carereceiver and by the caregiver for the purposes of transmitting information by the health and social services network for the purposes of the new tax credit;
- by signing the form, the caregiver and the eligible carereceiver will make a declaration according to which all the information is, to the best of their knowledge, true and will acknowledge that making a false declaration may entail the imposition of penalties by Revenu Québec and even constitute an offence under the *Tax Administration Act*;
- unless there is a change in the situation existing between the caregiver and the eligible carereceiver, the certificate will not have to be renewed annually, but it will have to be renewed every three years.

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<sup>102</sup> The professional of the health and social services network must be a member of a professional order provided for by the Québec *Professional Code* (CQLR, chapter C-26). If a professional of the private sector is mandated by the health and social services sector to provide services to the eligible carereceiver, that professional can sign the attestation. The professional order membership number must appear on the certificate.

To summarize, the following table presents the main parameters of the two components of the new refundable tax credit for caregivers.

TABLE A.4

**Main parameters of the refundable tax credit for caregivers – 2020**

	<b>Component 1: Eligible carereceiver aged 18 or older having a severe and prolonged impairment</b>	<b>Component 2: Eligible carereceiver aged 70 or older having no severe and prolonged impairment</b>
Universal amount (with co-residency)	\$1 250	\$1 250
Reducible amount <sup>(1)</sup> (with or without co-residency)	\$1 250	—
Reduction threshold <sup>(2)</sup>	\$22 180	n/a
Reduction rate	16%	n/a
Characteristics of the eligible carereceiver	Person aged 18 or older having a severe and prolonged impairment in mental or physical functions and needing assistance in carrying out a basic activity of daily living. <sup>(3)</sup>  [Required form: <i>Certificate Respecting an Impairment</i> (TP-752.0.14-V)]	Person aged 70 or older having no severe and prolonged impairment
Eligible carereceivers	Spouse, father, mother, grandfather, grandmother, child, grandchild, nephew, niece, brother, sister, uncle, aunt, great-uncle, great-aunt or any other direct ascendant of the caregiver or of the caregiver's spouse.  OR  Person having no family relationship with the caregiver, but with certification of genuine involvement with the eligible carereceiver.  [Required form: <i>Certificate of Ongoing Assistance</i> ]	Father, mother, grandfather, grandmother, uncle, aunt, great-uncle, great-aunt or any other direct ascendant of the caregiver or of the caregiver's spouse.
Assistance period	365 consecutive days, including at least 183 days during the year (unless the caregiver or carereceiver dies during the year)	
Shareable	Yes, provided each of the caregivers, as applicable, co-resided with or supported the eligible carereceiver for at least 90 days	
Other restrictions	The eligible carereceiver cannot be a person living in a seniors' residence or in a facility of the public network	

(1) The reducible amount of up to \$1 250 will be an amount in addition to the basic amount of \$1 250 if the caregiver co-resides with the eligible carereceiver. If there is no co-residency, the reducible amount of up to \$1 250 will be the only amount that the caregiver can claim.

(2) The threshold is based on the eligible carereceiver's net income.

(3) The requirement respecting being unable to live alone is replaced by the need for assistance in carrying out a basic activity of daily living. Informal caregivers eligible for the current tax assistance will not be required to submit a new certificate of impairment of the eligible carereceiver to be eligible for the new tax credit.



## **❑ Advance payment of the universal basic amount under components 1 and 2 of the refundable tax credit for caregivers**

To enable persons eligible for the new refundable tax credit for caregivers to receive this tax assistance more rapidly and on a regular basis, the government will allow the basic universal amount of \$1 250 under component 1 or component 2 of the tax credit to be paid by advance payments, on a monthly basis, as of 2021.

For this purpose, an advance payment application form for the basic amount of the new tax credit will be created by Revenu Québec.

To receive advance payments of this tax credit, the caregiver must be registered for direct deposit.

The amounts received monthly will be reconciled to the end of the year when the caregiver files his or her income tax return.

Furthermore, the reducible amount under component 1 of the new tax credit for caregivers cannot be paid in advance to the caregiver. It can be claimed only when the income tax return is filed.

## **❑ Application date**

The new refundable tax credit for caregivers comprising two new components replaces the four components of the tax credit for informal caregivers of persons of full age as of January 1, 2020.

### **2.1.1 Changes to the other tax credits relating to informal caregivers**

Due to the introduction of the tax credit for caregivers which increases the amounts granted to caregivers and provides for application of the new tax credit to persons who have no family relationship with the eligible carereceiver, the deployment of sums for caregivers will be restructured.

Currently, the *Taxation Act*, in addition to the existing tax credit for informal caregivers of persons of full age—which is replaced by the refundable tax credit for caregivers—provides for two other refundable tax credits relating to informal caregivers that have not reached the targeted clientele:

- the refundable tax credit for respite expenses, also called the “tax credit for respite of caregivers”,<sup>103</sup>
- the refundable tax credit for persons providing respite to informal caregivers, also called the “tax credit for volunteer respite services.”<sup>104</sup>

Thus, as of January 1, 2021, these two tax credits will be eliminated.

<sup>103</sup> This tax credit is provided for in sections 1029.8.61.76 to 1029.8.61.82 of the *Taxation Act*.

<sup>104</sup> This tax credit is provided for in sections 1029.8.61.71 to 1029.8.61.75 of the *Taxation Act*.

However, as of 2020, a caregiver who paid respite expenses that qualify as specialized respite services for an eligible carereceiver having a severe and prolonged impairment in mental or physical functions can claim an additional amount under component 1 of the refundable tax credit for caregivers. This assistance for respite expenses will be equal to 30% of total expenses paid for eligible specialized respite services up to \$5 200 and will no longer be reducible based on the caregiver's income.

Furthermore, since January 1, 2020, certain individuals may have incurred expenses for specialized respite services in respect of an eligible relative for the purpose of claiming, for 2020, the refundable tax credit for respite expenses. Likewise, certain individuals may have accumulated hours of volunteer services for the purpose of claiming, for 2020, the tax credit for volunteer respite services. Thus, in recognition of the fact that certain individuals may have incurred expenses or provided hours of volunteer services since the beginning of 2020, these two credits—the refundable tax credit for respite expenses and the refundable tax credit for volunteer respite services—will be maintained in full for 2020.

However, for 2020, an individual will not be able to claim, in respect of the same eligible carereceiver, both the refundable tax credit for caregivers and the refundable tax credit for respite expenses or refundable tax credit for volunteer respite services.

## **2.2 Simplification of payment of the refundable tax credit for solidarity to the surviving spouse**

To better meet the needs of low and middle-income households and to offset the regressive nature of certain taxes, the government introduced the refundable tax credit for solidarity (hereinafter, the “solidarity tax credit”) in Budget 2010-2011.<sup>105</sup>

This tax credit was structured into three separate components:

- the Québec sales tax (QST) component;
- the housing component;
- the component for individuals living in northern villages.

The QST component takes into consideration the effect of the costs related to the QST and takes into account the burden this tax places on the purchasing power of citizens eligible for the solidarity tax credit. This component of the solidarity tax credit is in turn subdivided into three elements:

- the basic amount;
- the amount for a spouse if, at the end of the base year relating to the payment period, the individual had a cohabiting spouse who, at that time, was resident in Québec and ordinarily lived with the individual;

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<sup>105</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2010-2011 – Additional Information on the Budgetary Measures*, March 30, 2010, pp. A.8-A.24.

- the amount for a person living alone if, throughout the base year, the individual ordinarily lived in a self-contained domestic establishment in which no other person aged 18 or over ordinarily lived.

To receive the solidarity tax credit, the taxpayer must apply to the Minister of Revenue when filing his or her income tax return by enclosing the proper schedule (Schedule D), duly completed.

The requirement to submit an application by means of Schedule D still applies to obtain the solidarity tax credit, subject to the measures allowing for greater flexibility that were introduced in November 2017.<sup>106</sup> When the Québec Economic Plan update was tabled in November 2017, a measure allowing for greater flexibility was announced for the automatic payment of certain types of tax assistance, including the basic amount and the amount for a spouse under the QST component of the solidarity tax credit.

Thus, since those measures were announced in November 2017, to obtain the basic amount and the amount for a spouse under the QST component of the solidarity tax credit, for a particular payment period, eligible individuals are still required to file their income tax returns for a taxation year that is the base year relating to that particular payment period, but the returns no longer have to be accompanied by Schedule D.

In addition, note that for all individuals eligible for the solidarity tax credit, the requirement to file a tax return (including Schedule D) for the base year relating to a particular payment period still applies to obtain all the components of the tax credit.

### **❑ Condition for applying for the solidarity tax credit in the case of a couple**

One of the conditions for applying for the solidarity tax credit in the case of a couple is that they file a single application, even though the cohabiting spouses are each required to file his or her own income tax return for the base year relating to a particular payment period.

When, at the end of the base year relating to a particular payment period, an eligible individual ordinarily lives with another eligible individual who is his or her cohabiting spouse for the purposes of the solidarity tax credit, only one application for the couple can be considered valid for that period.

Also, although the solidarity tax credit is determined based on family income, it is paid to only one of the spouses.

### **❑ Current situation in case of death**

As the tax provisions respecting the solidarity tax credit are currently worded, in the case of spouses cohabiting on December 31 of a base year, where the applicant for the tax credit for the couple dies during the payment period relating to the base year, payment of the amounts of the tax credit determined for the couple in respect of the payment period relating to that base year ceases as of the month of payment following the month of death of the applicant for the tax credit.

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<sup>106</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin* 2017-11, November 21, 2017, pp. 15-17.

When an eligible individual dies, he or she is no longer entitled to receive, for a particular payment period, an amount on account of the solidarity tax credit as of the month of payment following the month of his or her death.

Nevertheless, the *Taxation Act* provides that the Minister of Revenue may pay the surviving spouse an amount that the spouse claiming the solidarity tax credit would have been entitled to receive, if he or she had not died.

However, for Revenu Québec to be able to pay an amount following the death of the spouse claiming the solidarity tax credit, the surviving cohabiting spouse must first apply by filing Schedule D no later than December 31 of the fourth year following the base year and be an eligible individual.<sup>107</sup>

## **□ New simplification measure for the surviving spouse**

To facilitate the administration of the solidarity tax credit and allow surviving spouses to continue receiving the government assistance provided by this tax credit as soon as possible following the death of their spouse, the tax legislation will be amended to eliminate the requirement for a surviving spouse qualifying as the cohabiting spouse of the applicant for the tax credit at the end of the base year relating to a particular payment period to formally apply to Revenu Québec to continue receiving amounts of the solidarity tax credit to which the couple is entitled for the payment period relating to that base year.

Thus, provided the surviving spouse of the couple qualifies as an eligible individual in respect of the particular payment period, Revenu Québec will be able to pay him or her the balance of the amounts of the solidarity tax credit determined for the couple in respect of the payment period relating to the base year when the information concerning the applicant's death is transmitted to Revenu Québec, by the surviving spouse or otherwise. For that purpose, the surviving spouse must agree to direct deposit of the sums and provide his or her bank information to Revenu Québec if this has not already been done.

## **□ Clarifications**

Note that the amounts of the solidarity tax credit to which a couple is entitled in respect of a base year relating to a particular payment period are determined based on their status as cohabiting spouses for the purposes of the tax credit on December 31 of that base year.

Subsequently, where the applicant for the tax credit for the couple dies, no new determination is required for the amounts of the tax credit to which the couple is entitled in respect of the base year relating to the particular payment.

In this context, the death of the applicant for the tax credit should therefore not impact the other spouse's right to continue receiving the balance of the amounts of the tax credit to which the couple is entitled for the payment period since they were determined based on the situation of the cohabiting spouses at the end of the base year relating to the particular payment period.

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<sup>107</sup> The requirement to file an application for the payment to be transferred to the surviving cohabiting spouse is set forth in section 1029.8.116.26.2 of the *Taxation Act*.

Finally, since the amounts to be paid to the surviving spouse were established at the time when the eligible individuals' status as cohabiting spouses for the purposes of the solidarity tax credit was determined, the proposed new approach does not contravene the inalienability rule respecting a sum owed by the government as a refund provided for in the *Tax Administration Act*.

#### **❑ Application date**

The new simplification measure for the surviving spouse will apply in all files where the death of the spouse claiming the solidarity tax credit occurs on or after July 1, 2020.



# Section B

## PLAN TO ENSURE TAX FAIRNESS

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# 1. CONTINUATION OF THE ACTION PLAN

In the interest of fairness and to ensure the funding and improvement of the public services that benefit all Quebecers, the government is continuing its efforts to collect tax revenues that escape it.

The Tax Fairness Action Plan is the strategy being implemented by the government to fight tax evasion<sup>1</sup> and tax avoidance<sup>2</sup> and to ensure the integrity of the tax system.

In Budget 2019-2020, the government introduced several initiatives to strengthen the Tax Fairness Action Plan, including:

- blocking access to public contracts for businesses and promoters that have used abusive tax avoidance strategies;
- making it mandatory for individuals who operate a digital accommodation platform to collect the tax on lodging;
- extending the *Attestation de Revenu Québec* to public-building cleaning services;
- increasing tax compliance in respect of transactions on financial markets;
- scaling up the inspection, oversight and investigation functions of the Registraire des entreprises du Québec.

In addition, in *Information Bulletin 2019-5* of the Ministère des Finances du Québec dated May 17, 2019, the following initiatives were announced:

- introduction of new measures to counter tax schemes based on sham transactions;<sup>3</sup>
- introduction of mandatory disclosure to Revenu Québec of any transaction involving a nominee;
- extension of the scope of the current mandatory disclosure mechanism so as to specify transactions or series of transactions that must be disclosed.

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<sup>1</sup> Tax evasion is defined as all illegal steps that consist in non-reporting of legal income, concealment of illegal income or failure to obey tax rules.

<sup>2</sup> Tax avoidance corresponds to interpretations of the law that border on the illegal. The use of such procedures does not violate any particular legal rule, but it does not comply with the spirit of the law.

<sup>3</sup> The concept of “sham” refers to a transaction or series of transactions aimed at misleading the tax authorities as to the actual nature of transactions or relationships between parties and that thus have an element of deception aimed at creating an illusion in order to mislead the tax authorities as to a taxpayer's identity or the actual nature of a transaction or series of transactions.

## ❑ Collection of the QST by suppliers outside Québec

Since January 1, 2019, foreign suppliers of incorporeal property and services have been required to register for the QST, collect the tax and remit it to Revenu Québec. The same requirement has applied since September 1, 2019 to Canadian suppliers of property (corporeal and incorporeal) and services located outside Québec.

To date, 126 foreign companies and 380 Canadian companies have registered with the specified registration system for the QST. For 2019-2020, it is anticipated that these suppliers will remit additional revenues of nearly \$120 million to the government.

With regard to corporeal property from abroad, the Québec government had announced that it would support the Canada Border Services Agency through a pilot project to ensure collection of the QST on parcels from abroad.

Since the pilot project did not have the desired results, the Québec government is reiterating its determination to see the QST collected on corporeal property from abroad, and it intends to require that foreign suppliers collect the QST when they sell, in Québec, corporeal property to Québec consumers.

To that end, Québec would like to proceed in a harmonized and coordinated manner with the federal government. In fact, the latter has also expressed its intention to require that “international digital corporations whose products are consumed in Canada collect and remit the same level of sales tax as Canadian digital corporations.”<sup>4</sup>

Given the shared determination of both governments, Québec will work with the federal government to implement in 2021 harmonized rules for the collection of the QST and the GST/HST by foreign suppliers.

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<sup>4</sup> GOVERNMENT OF CANADA, *Minister of Finance Mandate Letter*, Online, December 13, 2019, <https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-finance-mandate-letter>, (Consulted on February 14, 2020).

### **Pilot project on the collection of taxes at the border**

The Canada Border Services Agency (CBSA) collects the QST on parcels at the border under an agreement signed in 1992. This agreement concerns property brought back by travellers, property received by mail and parcels received by messenger service.

Revenu Québec, CBSA and Canada Post Corporation collaborated on a pilot project to improve the collection of sales taxes on parcels arriving in Canada.

Additional resources provided support to CBSA officers at the Canada Post sorting centre in Montréal to ensure more effective collection of taxes. This one-year pilot project ended in October 2019.

The results of this pilot project fell short of expectations. Indeed, the project allowed the collection of only \$1.5 million in sales taxes (GST/HST and provincial sales taxes), including only \$238 000 in QST.

Analysis of the results showed that the flow of parcels was less than expected. In fact, CBSA's QST remittances as a whole declined in 2019.

The possible causes of this situation include, in particular:

- changes in purchasing habits – a recent study indicates that Quebecers are making purchases from Québec and Canadian suppliers more frequently than before;
- changes in the business model of large online sales businesses – a large amount of property purchased from foreign suppliers through digital platforms is now being delivered from warehouses located in Canada.

## ❑ New measures of the Tax Fairness Action Plan

The government is also continuing to implement the Tax Fairness Action Plan by introducing new initiatives.

To that end, the government is providing for, as part of Budget 2020-2021, investments of \$29.6 million over five years in order to:

- strengthen corporate transparency;
- step up actions to fight tax evasion and tax avoidance;
- more effectively combat fraud against the government.

These initiatives are expected to generate additional revenue of \$160 million over five years.

TABLE B.1

### Financial impact of the initiatives in the Tax Fairness Action Plan (millions of dollars)

	2020- 2021	2021- 2022	2022- 2023	2023- 2024	2024- 2025	Total
Strengthening corporate transparency	-0.4	-1.5	-0.7	-1.9	-0.4	-4.9
Stepping up actions to fight tax evasion and tax avoidance	-3.5	-4.0	-4.0	-4.1	-4.1	-19.7
Combatting fraud against the government more effectively	-1.0	-1.0	-1.0	-1.0	-1.0	-5.0
<b>Subtotal</b>	<b>-4.9</b>	<b>-6.5</b>	<b>-5.7</b>	<b>-7.0</b>	<b>-5.5</b>	<b>-29.6</b>
Revenue generated by the initiatives in the Tax Fairness Action Plan	—	5.0	10.0	70.0	75.0	160.0
<b>TOTAL</b>	<b>-4.9</b>	<b>-1.5</b>	<b>4.3</b>	<b>63.0</b>	<b>69.5</b>	<b>130.4</b>

## 2. STRENGTHENING CORPORATE TRANSPARENCY

Following the work of the Committee on Public Finance concerning the use of tax havens, the government put several initiatives in place to, in particular, strengthen corporate transparency and improve the quality of information declared to the enterprise register.

These initiatives are making it possible to more effectively combat schemes that aim to conceal the identity of beneficial owners and foster tax evasion and abusive tax avoidance, money laundering and the financing of criminal activities.

As announced in Budget 2019-2020, the government held a public consultation in fall 2019 on initiatives to strengthen corporate transparency. The various comments made by participants in their briefs enriched the reflection process.

All participants supported the objective of greater transparency. Several stressed the fact that information should be made available to the media and civil society bodies, as well as to individuals and businesses that want to know who they are doing business with.

— However, some participants invited the government to exercise caution with regard to the protection of privacy and personal information.

As part of Budget 2020-2021 and to continue its efforts to strengthen corporate transparency, the government will:

- require businesses to declare information on beneficial owners to the Registraire des entreprises du Québec (REQ);
- make it possible to do searches in the enterprise register using the name of a natural person;
- prohibit the issue of subscription warrants or stock options in bearer form.

The government will optimize corporate transparency while protecting privacy and personal information. Legislative amendments will be required for this purpose.

TABLE B.2

### Financial impact of the initiatives to strengthen corporate transparency (millions of dollars)

	2020- 2021 <sup>(1)</sup>	2021- 2022	2022- 2023	2023- 2024	2024- 2025	Total
Strengthening corporate transparency <sup>(2)</sup>	-0.4	-1.5	-0.7	-1.9	-0.4	-4.9

(1) The amounts for 2020-2021 will be drawn from the Contingency Fund.

(2) Appropriations will be granted to the Ministère du Travail, de l'Emploi et de la Solidarité sociale.

## **2.1 Requiring businesses to declare information on beneficial owners to the REQ**

In recent years, many countries have made it mandatory for businesses to declare their beneficial owners to the designated authorities, in accordance with the recommendations of several international bodies.

Québec, for its part, is already a leader in corporate transparency in Canada. The REQ contributes to public protection and Québec's social and economic development. Free and user-friendly, the enterprise register contains a host of relevant information and is thus a reference in Canada.

In Budget 2020-2021, the government confirms Québec's leadership in this area by introducing the requirement that businesses carrying on activities in Québec must declare information on their beneficial owners to the REQ.

This measure is in keeping with a national and international movement to strengthen corporate transparency.

It is proposed that the public be given access to most of the information recorded in the register. However, arrangements will be taken to protect privacy.

More detailed information is provided in an appendix.

## **2.2 Allowing searches to be conducted in the enterprise register using the name of a natural person**

Authorizing searches by name will allow for better use of the information contained in the enterprise register, increase public protection and foster transparency in the economic sector. Several countries, including the United Kingdom and France, already allow searches to be conducted in their respective enterprise registers using the name of a natural person.

Investigative bodies are already allowed to do searches using a natural person's name in the enterprise register. The public will also be able to conduct such searches subject to the limits related to the protection of personal information and privacy.

More detailed information is provided in an appendix.

## International initiatives

In recent years, several international intergovernmental and non-governmental bodies have made recommendations to strengthen corporate transparency.

- In 2014, the leaders of the G20 adopted ten key principles pertaining to beneficial owners.
- In 2016, the Financial Action Task Force (FATF)<sup>1</sup> published a report on Canada containing several recommendations on initiatives that should be taken.
- In 2017, Tax Justice Network<sup>2</sup> drew up a list of the characteristics that governments' enterprise registers should have if they are to combat tax evasion and money laundering more effectively.
- In March 2019, the Organisation for Economic Co-operation and Development (OECD) put out a guide on the implementation of beneficial ownership, as part of its Global Anti-Corruption and Integrity Forum.

In addition, several countries have taken steps to counter schemes that use shell companies to conceal the true identity of beneficial owners.

- In 2016, the United Kingdom set up a register based on the beneficial owners of corporations.
- Since 2017, the European Union has required that its member states use a mechanism for identifying the beneficial owners of corporations in their own central registers.
- In 2017, various European countries continued their efforts to create central information registers on the beneficial owners of corporations.
- In early 2017, Australia held public consultations on the collection and use of information on beneficial owners.
- In October 2019, the United States House of Representatives approved the *Corporate Transparency Act of 2019*, whose objective is to set up a national database on beneficial owners.
- In January 2020, British Columbia launched a public consultation on the creation of a register of beneficial owners of corporations.
- In February 2020, the Government of Canada launched a public consultation on, among other things, the creation of a public register for information on beneficial ownership.

1 The FATF is an inter-governmental body that ensures compliance with global standards on the fight against money laundering and the financing of terrorist activities.

2 Tax Justice Network is an independent network founded in 2003 that conducts research, produces analyses and offers advice on taxation and international financial regulation as well as the fight against tax evasion and the use of tax havens.

## 2.3 Prohibiting the issue of subscription warrants or stock options in bearer form

The issue of bearer shares has been prohibited by the *Business Corporations Act* since 2011.<sup>5</sup> However, the Act does not expressly prohibit the issue of subscription warrants or stock options in bearer form.

An investor may hold a proportion of a corporation's shares that is below the threshold needed for the investor to be considered a beneficial owner, but hold subscription warrants or stock options in bearer form that, if the investor exercises his or her rights, would provide him or her with the proportion of shares needed to obtain the title of beneficial owner.

If the subscription warrants or stock options are in bearer form rather than registered form, the issuing corporation is unable to determine the potential beneficial owner.

To strengthen corporate transparency, the government intends to expressly prohibit the issue of subscription warrants or stock options in bearer form. To that end, amendments will have to be made to the *Business Corporations Act*.

### Subscription warrants and stock options in bearer form

A subscription warrant is a financial instrument that grants the right, but not the obligation, to purchase securities from an issuing corporation at a predetermined price and within a predetermined time period.

A stock option is a contract whereby the issuer makes a commitment to sell securities to the holder of the option at a predetermined price if the holder decides to exercise his or her right by the time limit set.

Like most securities, subscription warrants and stock options can be in "registered" or in "bearer form". The difference between the two is that when a financial instrument is in "bearer form", the corporation does not know the identity of the holder.

<sup>5</sup> CQLR, chapter S-31.1.



### 3. STEPPING UP ACTIONS TO FIGHT TAX EVASION AND TAX AVOIDANCE

To step up actions to fight tax evasion and abusive tax avoidance, the government is introducing targeted initiatives in sectors where specific problems have been observed. These initiatives are making it possible to optimize government interventions.

TABLE B.3

#### Financial impact of the initiatives to step up actions to fight tax evasion and tax avoidance (millions of dollars)

	2020- 2021	2021- 2022	2022- 2023	2023- 2024	2024- 2025	Total
Facilitating tax compliance in the residential renovation sector	—	5.0	10.0	70.0	75.0	160.0
Stepping up criminal history checks in the construction sector <sup>(1)</sup>	-1.5	-1.5	-1.5	-1.5	-1.5	-7.5
Increasing efforts to combat tobacco smuggling <sup>(1)</sup>	-1.0	-1.5	-1.5	-1.5	-1.5	-7.0
Adapting inspection and investigation methods for alcoholic beverages <sup>(1)</sup>	-0.5	-0.5	-0.5	-0.5	-0.5	-2.5
Tightening regulations in the personnel placement agency sector	—	—	—	—	—	—
Granting more powers to inspectors in the remunerated passenger transportation sector	—	—	—	—	—	—
Increasing the number of inspections of money-services businesses <sup>(2)</sup>	-0.5	-0.5	-0.5	-0.6	-0.6	-2.7
Continuing to develop expertise in the cryptocurrency sector	—	—	—	—	—	—
Enabling suppliers that are active on collaborative economy platforms to comply more effectively with their tax obligations	—	—	—	—	—	—
<b>TOTAL</b>	<b>-3.5</b>	<b>1.0</b>	<b>6.0</b>	<b>65.9</b>	<b>70.9</b>	<b>140.3</b>

(1) Appropriations will be granted to the Ministère des Finances du Québec for the Provision to increase any appropriation for initiatives concerning revenues of and fraud against the government.

(2) The funds will be drawn from the Tax Administration Fund.

### 3.1 Optimizing efforts in at-risk sectors

Tax evasion and tax avoidance schemes change constantly, prompting the government to improve and step up its actions aimed at addressing certain targeted problems. To optimize its initiatives, the government is prioritizing action in sectors deemed to be more at risk.

#### ❑ **Combatting tax evasion and unreported work in the construction sector more effectively**

The special characteristics of the construction industry make this sector conducive to tax evasion and unreported work.

In recent years, the government has introduced several initiatives to combat these illegal practices in the construction sector. As part of Budget 2020-2021, the government is continuing its efforts through targeted initiatives.

#### ■ **Facilitating tax compliance in the residential renovation sector**

Revenu Québec's mission is to help taxpayers fulfil their tax obligations more easily and to thus encourage compliance. One of the problems observed in the residential renovation sector is unreported transactions between customers and the businesses that do the work.

After consulting with the industry, the government will identify targeted measures in the residential renovation sector. These measures will be aimed at simplifying tax compliance, particularly by incorporating innovative technological solutions developed by Revenu Québec. The additional anticipated revenue is estimated at \$160 million over five years.

#### ■ **Stepping up criminal history checks in the construction sector**

Since 2009, the *Building Act*<sup>6</sup> has stipulated that the guarantors, directors and shareholders of a construction company must meet certain criteria pertaining to integrity and public trust in order to hold a contractor's licence issued by the Régie du bâtiment du Québec.

To ensure the integrity of actors in this sector, the Régie du bâtiment du Québec conducts, in compliance with its obligations, criminal history checks in order to prevent fraudulent and unethical conduct and better protect the public.

The funding granted to the Régie du bâtiment du Québec will be increased to step up criminal history checks on the guarantors, directors and shareholders of construction companies.

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<sup>6</sup> CQLR, chapter B-1.1.

## ❑ Increasing efforts to combat tobacco smuggling

Thanks to the actions taken by ACCES<sup>7</sup> tobacco committee partners, Québec is a leader in combatting tobacco product smuggling in Canada. However, it must continue to provide this leadership by adapting to new schemes and maintaining the pressure on smugglers.

As part of Budget 2020-2021, the government is providing increased funding for police forces that are partners of the ACCES tobacco committee. This measure will allow increased coverage in certain regions of Québec and strengthen the capacity of the police forces concerned.

In addition, legislative amendments will be required in order to:

- facilitate the retention of anything that constitutes an element of proof or has been used to commit an offence;
- obtain an order from a judge in the course of an investigation requiring documents or information from a person, such as bank documents or import documents;
- change the time limits for executing warrants;
- improve the mechanism for the preservation of evidence and the rapid destruction of pieces of evidence after they have been seized.

These changes will simplify police interventions.

## ❑ Adapting inspection and investigation methods for alcoholic beverages

The *Act to modernize the legal regime applicable to liquor permits and to amend various other legislative provisions with regard to alcoholic beverages*,<sup>8</sup> passed in 2018, led to several changes in the alcoholic beverage sector. As a result of these changes, control methods must be adapted to preserve public health and safety and prevent a resurgence of alcohol smuggling.

The government is providing for additional sums to enable ACCES alcohol committee partners to adapt their inspection and investigation methods to the recent legislative changes.

<sup>7</sup> Actions concertées pour contrer les économies souterraines (concerted actions to counter the underground economy).

<sup>8</sup> S.Q. 2018, chapter 20.

## ❑ **Tightening regulations in the personnel placement agency sector**

Since January 1, 2020, it has been mandatory for personnel placement agencies to hold a licence issued by the Commission des normes, de l'équité, de la santé et de la sécurité du travail under the *Act respecting labour standards*.<sup>9</sup>

In Budget 2020-2021, the government provides that personnel placement agencies that hold this licence will be required to have a valid *Attestation de Revenu Québec* at all times. This will enable businesses to regularize their tax obligations with Revenu Québec.

- The *Attestation de Revenu Québec* is issued only to placement agencies that have filed the necessary returns and reports under a Québec tax law and that do not have any overdue accounts payable under such a law.
- The Commission des normes, de l'équité, de la santé et de la sécurité du travail will be informed of agencies that do not have a valid attestation and will be able to suspend their licence.
- The list of compliant licence holders will be updated periodically for the benefit of agency clients.

Legislative and regulatory amendments will be required for this purpose.

## ❑ **Granting more powers to inspectors in the remunerated passenger transportation sector**

Once the provisions pertaining to sales recording systems come into effect, a bill will have to be remitted to the customers of any person or business offering remunerated passenger transportation services, whether through traditional taxis or new digital platforms. Sales recording systems will make it easier for operators to compile sales.

Consideration is being given to implementing these measures gradually as of summer 2020.

To ensure that these new obligations are complied with, additional inspection and auditing powers will be granted to Revenu Québec. This measure will require, in particular, amendments to the *Act respecting the Québec sales tax*.

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<sup>9</sup> CQLR, chapter N-1.1.

### 3.2 Increasing interventions in the financial sector and the new economy

The financial sector is changing rapidly due to the development of new technologies. The government plans to adapt its actions based on recent changes in the sector through better oversight and targeted interventions. It must also adapt to the advent of new technologies that pose special challenges.

#### ☐ Increasing the number of inspections of money-services businesses

The *Money-Services Businesses Act*<sup>10</sup> was passed in 2010 to combat tax fraud and money laundering schemes involving money-services businesses.<sup>11</sup>

The government intends to increase the number of resources at Revenu Québec to take advantage of the leverage provided by this Act, which allows for interventions with regard to money-services businesses that operate in secret and to those that fail to operate their licence in accordance with the requirements. This measure will allow better coverage of Québec's territory as a whole.

In Budget 2020-2021, the government is providing for an increase in funding for Revenu Québec to support it in this mandate.

#### ☐ Continuing to develop expertise in the cryptocurrency sector

In recent years, virtual assets such as cryptocurrencies have grown significantly worldwide. In some cases, these financial instruments are used to carry out fraudulent schemes.

Several international organizations have proposed measures to regulate virtual assets in order to, in particular, combat the use of cryptocurrency in the development of tax evasion, abusive tax avoidance and money laundering schemes.

More in-depth reflection is required on virtual assets, including cryptocurrency, because they are based on rapidly changing technology and their impact on the economy as a whole is uncertain.

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<sup>10</sup> CQLR, chapter E-12.000001.

<sup>11</sup> The following services are considered to be money-services: currency exchange, funds transfer, the issue or redemption of traveller's cheques, money orders or bank drafts, cheque cashing and the operation of automatic teller machines.

With the goal of marshalling its expertise to improve cooperation and propose innovative solutions, the government is announcing the creation of a group bringing together, in particular, specialists from Revenu Québec, the Autorité des marchés financiers, police forces and the Ministère des Finances du Québec. This group will propose innovative solutions to better regulate the cryptocurrency sector.

Regulating cryptocurrency
<p>For cryptocurrency to be regulated effectively, the government will have to continue to reflect on certain issues, including:</p> <ul style="list-style-type: none"> <li>— the regulation of cryptocurrency exchange platforms;</li> <li>— the use of virtual assets in the development of tax evasion and abusive tax avoidance, money laundering and terrorism financing schemes;</li> <li>— information on fraud and protection against it.</li> </ul>

### **❑ Enabling suppliers that are active on collaborative economy platforms to comply more effectively with their tax obligations**

The collaborative economy sector is playing an increasing role in Québec's economy, particularly in the areas of accommodation and remunerated passenger transportation. This type of economy often involves suppliers who are individuals and who may be active on several platforms, which makes it even more complicated for them to report all of their income.

Given the rapid growth of the digital economy, a reflection process must be undertaken so that the government can ensure that suppliers are able to fulfil their tax obligations and that tax regulations are adapted accordingly.

The Organisation for Economic Co-operation and Development (OECD) mentions that the capacity of digital platforms to communicate with suppliers offers a unique opportunity to tax authorities to use these platforms for the dissemination of information on these suppliers' obligations.<sup>12</sup> Given the important role of digital platforms in the collaborative economy, the latter could help to better inform suppliers about their tax obligations. With this aim in mind, the government will consult with the various digital platforms involved in the collaborative economy in order to find effective solutions.

<sup>12</sup> OECD, *The Role of Digital Platforms in the Collection of VAT/GST on online sales*, OECD Publishing, Paris, June 20, 2019, p. 55.

## 4. COMBATTING FRAUD AGAINST THE GOVERNMENT MORE EFFECTIVELY

In Budget 2019-2020, the Québec government announced the creation of a new unit within the Sûreté du Québec tasked with investigating fraud against the government in collaboration with the departments and bodies concerned.

The government is reaffirming its commitment to combat fraud against the government by increasing resources to fight this type of crime.

TABLE B.4

### Financial impact of the measures to more effectively combat fraud against the government (millions of dollars)

	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	Total
Increasing the investigative capacity of the Sûreté du Québec <sup>(1)</sup>	-0.8	-0.8	-0.8	-0.8	-0.8	-4.0
Promoting access for government bodies to the expertise of the Laboratoire de sciences judiciaires et de médecine légale <sup>(1)</sup>	-0.2	-0.2	-0.2	-0.2	-0.2	-1.0
<b>TOTAL</b>	<b>-1.0</b>	<b>-1.0</b>	<b>-1.0</b>	<b>-1.0</b>	<b>-1.0</b>	<b>-5.0</b>

(1) Appropriations will be granted to the Ministère des Finances du Québec for the Provision to increase any appropriation for initiatives concerning revenues of and fraud against the government.

### 4.1 Increasing the investigative capacity of the Sûreté du Québec

The Sûreté du Québec acts in concert with government departments and bodies to combat fraud against the government.

It conducts investigations under the *Criminal Code* when fraudulent strategies are used by re-offenders or criminal organizations. Therefore, it makes an essential contribution to combatting fraud against the government.

However, investigations to fight such crimes are complex. They require a high level of expertise and the use of state-of-the art investigative tools.

In Budget 2020-2021, the government is providing increased funding for the Sûreté du Québec in order to:

- step up the fight against crimes committed using digital media by, in particular, improving the information detection and collection process;
- accelerate computer analyses conducted as part of investigations.

## 4.2 **Promoting access for government bodies to the expertise of the Laboratoire de sciences judiciaires et de médecine légale**

Fraud against the government by criminal organizations often involves the use of falsified or counterfeit documents.

The Laboratoire de sciences judiciaires et de médecine légale has high-level expertise in document authentication.

So that departments and bodies that are victims of fraud can take full advantage of this expertise, the government is announcing, as part of Budget 2020-2021, increased funding for this laboratory in order to:

- improve the ability of departments and bodies to detect false documents in analyzing eligibility for programs or services;
- examine documents in dispute in order to establish their authenticity or determine if they are falsified or counterfeit;
- profile false documents;
- provide departments and bodies with training so that they will be able to combat fraud against the government more effectively.



## 5. FOLLOW-UP OF ACTIONS CARRIED OUT IN THE FIGHT AGAINST TAX EVASION AND FRAUD AGAINST THE GOVERNMENT

The initiatives taken by the government to promote integrity in the tax system and healthy competition and to combat fraud against the government are based, in particular, on concerted actions by various government departments and bodies.

In 2019-2020, the government funded many concerted actions in the fight against:

- unreported work in the construction sector;
- illicit trade in tobacco;
- illicit trade in cannabis;
- illicit trade in alcoholic beverages;
- economic and financial crime;
- fraud against the government;
- organized networks of unreported work.

### ☐ **The fight against unreported work in the construction sector (ACCES construction)**

The construction sector is an important part of Québec's economy. It is also greatly affected by tax evasion, unreported work and non-compliance with other legal obligations.

The ACCES<sup>13</sup> construction committee<sup>14</sup> comprises government departments and bodies that share information, pool their expertise and carry out concerted actions to fight tax evasion and unreported work in the construction sector.

<sup>13</sup> Actions concertées pour contrer les économies souterraines (concerted actions to counter the underground economy).

<sup>14</sup> ACCES construction brings together the Commission de la construction du Québec, the Régie du bâtiment du Québec, the Commission des normes, de l'équité, de la santé et de la sécurité du travail, Revenu Québec, the Ministère du Travail, de l'Emploi et de la Solidarité sociale, the Directeur des poursuites criminelles et pénales and the Ministère des Finances du Québec.

In 2018-2019, actions taken by ACCES construction partners yielded a return of \$112 million.

**Example of an intervention by ACCES construction**

Every year, the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) carries out numerous compliance interventions, particularly in the framework of ACCES construction, in order to ensure fairness among employers in regard to the funding of the occupational health and safety regime and to combat unreported work.

During the period from April 1 to December 31, 2019, the CNESST carried out 671 compliance interventions in the construction sector with its employer clientele in occupational health and safety. Several irregularities were noted in the course of these interventions, including:

- activities not reported by employers;
- missing insurable wages or improper apportionment of the payroll;
- employers not registered with the occupational health and safety regime;
- unreported workers or self-employed individuals deemed to be employed.

The CNESST also has an information unit for its employer clientele in order to enhance its operational interventions. The mission of this unit is, in particular, to detect irregularities or non-compliance problems and to improve interaction with ACCES construction committee partners.

Source: Commission des normes, de l'équité, de la santé et de la sécurité du travail.

## ❑ **The fight against the illicit trade in tobacco products (ACCES tobacco)**

The actions of ACCES tobacco committee<sup>15</sup> partners aim to dismantle smuggling networks, recover the tax losses linked to the illicit trade in tobacco and thus increase revenue from the specific tax on tobacco products.

— In 2019-2020, approximately 120 resources, including over 80 police officers were assigned to the fight against tobacco smuggling in Québec.

The actions carried out by partners target all activities related to tobacco smuggling, from the supply of raw materials to the sale of tobacco products to consumers.

The concerted actions of ACCES tobacco partners help to:

- increase the number of police interventions in the fight against smuggling networks, including neighbourhood networks;
- implement police surveillance of the main supply and transportation channels for smuggled tobacco;
- adapt police interventions to the schemes used by smugglers;
- improve information sharing between the different police forces and the departments and bodies taking part in these concerted actions across Québec.

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<sup>15</sup> ACCES tobacco brings together the Sûreté du Québec, the Service de police de la Ville de Montréal, other Québec police forces, the Association des directeurs de police du Québec, the École nationale de police du Québec, the Ministère de la Sécurité publique, Revenu Québec, the Directeur des poursuites criminelles et pénales, the Ministère de la Santé et des Services sociaux, the Ministère des Finances du Québec, as well as the Royal Canadian Mounted Police, the Canada Revenue Agency and the Canada Border Services Agency.

In 2018-2019, the actions of the ACCES tobacco committee yielded a return of \$206 million.

Examples of interventions by ACCES tobacco
<p><b>Tartufe project</b></p> <p>This large-scale investigation by the Service de police de Laval was aimed at dismantling a shisha tobacco supply network with branches in Ontario. Searches were conducted in April 2019 in a dozen locations in Laval, Gatineau and Ottawa.</p> <p>This investigation led to the seizure of 640 kilograms of shisha tobacco and two vehicles. Four individuals were arrested.</p> <p><b>Motorisé project</b></p> <p>This investigation launched by the Service de police de la Ville de Montréal in October 2019 targeted a network operating in downtown Montréal that sold roughly 10 000 contraband cigarettes a day.</p> <p>Six searches led to the seizure of more than 50 000 cigarettes and two vehicles. In addition, thanks to the intervention of Revenu Québec in this file, the bank accounts of two individuals were blocked.</p>

Sources: Service de police de Laval, Service de police de la Ville de Montréal and Ministère de la Sécurité publique.

## ❑ The fight against the illicit cannabis trade (ACCES cannabis)

Created in fall 2018, the ACCES cannabis committee<sup>16</sup> helps to combat cannabis smuggling and thus to:

- reduce access to cannabis for young people under 21 years of age in order to protect them from the risks related to using this substance;
- direct current consumers aged 21 and over to a safer, legal market.

The actions of ACCES cannabis partners aim to combat the illegal production and illicit trade of cannabis across Québec.

To that end, the funding granted is allowing around 100 resources to be assigned to the fight against the illicit cannabis trade and enables all police forces to conduct investigations.

### Examples of interventions by ACCES cannabis

#### Prohiber project

This investigation targeted a criminal organization suspected of trafficking cannabis, cocaine and methamphetamine on the territory of the Service de police de la Ville de Châteauguay. In April 2019, following a complex investigation, a total of 16 searches and 19 arrests were made by eight police forces in the Montérégie region.

#### Postier project

The Postier project was initiated by the Sûreté du Québec on the basis of information transmitted by the Ministère de la Santé et des Services sociaux concerning a website operating out of Québec that sold cannabis products online. The investigation uncovered the identity of the person in charge of the site as well as the source of supply for the illegal cannabis.

According to the investigation, the offender concerned may have sold about \$1 million worth of cannabis during 15 months of operation. Searches led to the seizure of more than 100 000 grams of dried cannabis, roughly 2 500 grams of derivative products, 375 cannabis plants, nearly \$35 000, three vehicles, as well as narcotics and firearms.

Sources: Sûreté du Québec and Ministère de la Sécurité publique.

<sup>16</sup> ACCES cannabis brings together the Sûreté du Québec, the Service de police de la Ville de Montréal, the Service de police de la Ville de Québec, the other Québec police forces represented by the Association des directeurs de police du Québec, the École nationale de police du Québec, the Ministère de la Sécurité publique, Revenu Québec, the Directeur des poursuites criminelles et pénales, the Ministère de la Santé et des Services sociaux, the Société québécoise du cannabis and the Ministère des Finances du Québec.

## ❑ The fight against the illicit trade in alcoholic beverages (ACCES alcohol)

The ACCES alcohol committee<sup>17</sup> conducts targeted actions to combat the illegal procurement of alcoholic beverages, maintain public safety in restaurants and bars and foster healthy competition in the alcoholic beverage trade.

For the most part, the committee's actions involve two methods of intervention:

- inspections of establishments holding an alcohol permit for consumption on the premises, which make it possible to detect possible offences involving the trade in alcoholic beverages;
- investigations to detect schemes for the illicit trade in alcoholic beverages at the production, distribution or sales level.

In 2018-2019, the actions of the ACCES alcohol committee yielded a return of \$91 million.

### Examples of interventions by ACCES alcohol

#### Plutonium project

The Plutonium project was initiated in June 2019 by the Sûreté du Québec in cooperation with Revenu Québec, the Société des alcools du Québec and Canada Post. The investigation aimed to dismantle an illegal alcohol resale network and narcotics trafficking in Nord-du-Québec. The scheme consisted in buying alcoholic beverages in the Montréal region and shipping them to Nord-du-Québec for resale at inflated prices.

According to the investigation, the main suspects had purchased nearly 40 000 bottles at a purchase price of over \$900 000. A series of searches were conducted in February 2020 with the participation of the Kativik Regional Police Force.

#### Project of the Service de police de la Ville de Montréal

An investigation conducted by the Service de police de la Ville de Montréal put an end to a scheme to steal alcoholic beverages under way in the warehouse of a Montréal brewer. The investigation uncovered the place where the stolen alcoholic beverages were being hidden and put an end to the scheme.

More than 185 000 containers of alcohol with an estimated value of over \$385 000 were seized. Charges were laid against six individuals and two businesses.

Sources: Sûreté du Québec, Service de police de la Ville de Montréal and Ministère de la Sécurité publique.

<sup>17</sup> ACCES alcohol brings together the Sûreté du Québec, the Service de police de la Ville de Montréal, the other Québec police forces represented by the Association des directeurs de police du Québec, the École nationale de police du Québec, the Ministère de la Sécurité publique, the Directeur des poursuites criminelles et pénales, Revenu Québec, the Régie des alcools, des courses et des jeux, the Société des alcools du Québec and the Ministère des Finances du Québec.

## ❑ The fight against economic and financial crime (ACCEF)

The ACCEF<sup>18</sup> committee was set up in 2004. Its mission is to foster better circulation of information among the main partners concerned and to detect and repress economic and financial crime.

Economic and financial crime has changed and grown in the past several years. The expertise of all ACCEF partners is critical to combatting this often complex type of crime that requires in-depth investigations.

The ACCEF committee has three components:

- the fight against tax crimes, which helps put an end to complex tax evasion and money laundering schemes;
- the fight against crimes committed on financial markets, which focuses on schemes whose victims are usually investors;
- the fight against money laundering, which aims to conceal the source of illegally acquired money.

In 2018-2019, the actions of the ACCEF committee yielded a return of \$34 million.

### Example of an intervention by ACCEF

#### Postiche project

This investigation, conducted by the Unité des produits de la criminalité of the Service de police de la Ville de Montréal, targeted a real estate broker who had been acting as a facilitator for criminal groups since 2007.

This person enabled the criminals to fraudulently purchase and sell properties used for cannabis production. The fake documents he produced, including employment letters associated with shell companies, enabled the criminal groups to obtain credit from financial institutions.

The main target was accused of fraud. His property and financial assets, worth over \$2 million, was targeted as proceeds of crime.

Sources: Service de police de la Ville de Montréal and Ministère de la Sécurité publique.

<sup>18</sup> Actions concertées contre les crimes économiques et financiers (concerted action against economic and financial crime). The ACCEF committee brings together the Sûreté du Québec, the Service de police de la Ville de Montréal, the Ministère de la Sécurité publique, Revenu Québec, the Directeur des poursuites criminelles et pénales, the Autorité des marchés financiers and the Ministère des Finances du Québec.

## ❑ **Fraud against the government**

Given the scope and complexity of frauds that government departments and bodies can face, the government announced in Budget 2019-2020 the creation of a unit at the Sûreté du Québec tasked with conducting investigations in a concerted manner against this type of crime.

Among other functions, the unit is responsible for:

- coordinating criminal and penal investigations;
- supporting the training of investigators within government departments and bodies;
- determining, at the end of investigations, the risks that departments and bodies are exposed to and, if necessary, strengthening potential control measures;
- providing the necessary technological support to conduct investigations.

<b>Forum de lutte contre la fraude envers l'État</b>
<p>The Forum de lutte contre la fraude envers l'État brings together government departments and bodies involved in combatting fraud against the government. This forum fosters concerted actions to, among other things:</p> <ul style="list-style-type: none"><li>— conduct joint investigations;</li><li>— share information on the schemes observed;</li><li>— identify best practices in the area of investigation;</li><li>— discuss problems encountered and find appropriate solutions.</li></ul> <p>Over the past year, the Sûreté du Québec and other government departments and bodies that are members of this forum conducted joint investigations on fraud schemes targeting government programs.</p>



## ❑ The fight against organized networks of unreported work

Since 2011, the Ministère du Travail, de l'Emploi et de la Solidarité sociale and its partners<sup>19</sup> have worked together to combat criminal networks linked to personnel placement agencies.

- The actions taken help to identify these networks, recover sums owed to the government, take deterrent action and support the entry into the legal labour market of people who have performed unreported work.
- The people who operate these networks recruit vulnerable workers, often newcomers, and generally pay them in cash, thereby depriving them of the protections and employee benefits provided for in Québec.
- These fraudulent agencies also neglect to report their income which generates significant tax losses for the Québec government.

The interventions carried out in 2018-2019 to combat this type of network yielded a return of \$11 million.

### **Example of an intervention carried out as part of the fight against organized networks of unreported work**

In summer 2019, the Ministère du Travail, de l'Emploi et de la Solidarité sociale carried out various searches targeting personnel placement agencies and the residences of certain suspects as part of an investigation related to an unreported work scheme.

The main suspects, who had around ten personnel placement agencies, did business with a dozen clients involved in a range of activity sectors, mainly food processing.

More than 8 000 workers have been identified to date in this file. Some of them are recipients of last resort financial assistance and several have performed unreported work. These workers will be informed about the assistance available to them for entering the labour market.

Source: Ministère du Travail, de l'Emploi et de la Solidarité sociale.

<sup>19</sup> For example, the Commission des normes, de l'équité, de la santé et de la sécurité du travail, Revenu Québec and the Sûreté du Québec.

## ❑ Results of concerted actions in the fight against tax evasion

To enable government departments and bodies facing problems related to tax evasion and fraud against the government to work in partnership so as to optimize the fight against these activities, the Ministère des Finances du Québec grants them funding from the Provision to increase any appropriation for initiatives concerning revenues of and fraud against the government (Provision).

— Partners therefore benefit from the expertise of other committee member partners, define policy directions, improve information sharing and analyse certain legal aspects.

In 2018-2019, concerted actions to fight tax evasion funded by the Provision yielded a total return of over \$453 million.

— The return per dollar invested in projects funded by the Provision was \$10.13.

TABLE B.5

### **Total return on concerted actions funded by the Provision to increase any appropriation for initiatives concerning revenues of and fraud against the government** (millions of dollars, unless otherwise indicated)

	2018-2019
ACCES construction	111.9
ACCES tobacco	206.1
ACCES alcohol	90.6
ACCEF	33.6
Fight against organized networks of unreported work	11.0
<b>TOTAL</b>	<b>453.3</b>
Funding granted to partners <sup>(1)</sup>	44.7
<b>RETURN PER DOLLAR INVESTED (DOLLARS)</b>	<b>10.13</b>

(1) Certain projects funded by the Provision have objectives that cannot be translated into monetary returns. Funding for these projects is excluded from the amount used to calculate the return per dollar invested from the Provision.

## ❑ Budget envelope

In 2019-2020, the Ministère des Finances du Québec allocated \$69 million to fund concerted actions to fight tax evasion and fraud against the government.

For 2020-2021, the budget envelope of the Provision will total \$53.7 million. Accordingly, additional appropriations will be allocated to the Ministère des Finances du Québec.

— The breakdown of funding by project for 2020-2021 is not available, as the Ministère des Finances du Québec is currently analyzing funding requests by government departments and bodies.

As for ACCES cannabis, it will be funded through the Cannabis Sales Revenue Fund, whose aim is the prevention of, and the fight against the harm associated with, psychoactive substances.

TABLE B.6

### **Funding of concerted actions to fight tax evasion** (millions of dollars)

	2019-2020	2020-2021
<b>Provision to increase any appropriation for initiatives concerning revenues of and fraud against the government</b>		
ACCES construction	8.5	—
ACCES tobacco	14.4	—
ACCES alcohol	6.1	—
ACCEF	14.4	—
Combatting fraud against the government	0.5	—
Fight against organized networks of unreported work	1.9	—
Other initiatives	3.4	—
<b>Subtotal</b>	<b>49.1</b>	<b>53.7</b>
<b>Cannabis Sales Revenue Fund</b>		
ACCES cannabis <sup>(1)</sup>	19.9	—
<b>TOTAL</b>	<b>69.0</b>	<b>—</b>

(1) Funding for ACCES cannabis is granted through the Cannabis Sales Revenue Fund and will be determined shortly for 2020-2021.



# APPENDIX: CLARIFICATIONS CONCERNING THE MEASURES TO STRENGTHEN CORPORATE TRANSPARENCY

## 1. The current situation

### ☐ Registraire des entreprises du Québec

Since January 1, 1994, most of the businesses that do business in Québec have been required to register with the Registraire des entreprises du Québec (REQ), which is responsible for keeping the enterprise register. This register was set up under the *Act respecting the legal publicity of sole proprietorships*<sup>20</sup> (ALPSP) for the purpose of protecting citizens and businesses in their commercial and socioeconomic dealings.

This register is a legal publicity vehicle for all businesses, regardless of their juridical form. It is a public database placed at the disposal of all citizens.

The REQ registers in the register the main information declared by businesses constituted in Québec or carrying on activities in Québec. This information has legal value and some of it may be set up against third persons.

Thanks to the register, Québec is a leader in corporate transparency in Canada. Indeed, this register is the only one in Canada that groups together such a large amount of information on businesses and makes it available to the public free of charge.

### ☐ Enterprises required to register with the register

The enterprises subject to the registration requirement that are most often found in the register are as follows:

- legal persons established for a private interest and constituted in Québec;
- legal persons established for a private interest not constituted in Québec, if they are domiciled in Québec, carry on an activity in Québec, which includes the operation of an enterprise, or possess an immovable real right, other than a prior claim or hypothec, in Québec;
- general or limited partnerships constituted in Québec;
- partnerships not constituted in Québec if they carry on an activity in Québec, which includes the operation of an enterprise, or possess an immovable real right, other than a prior claim or hypothec, in Québec;

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<sup>20</sup> CQLR, chapter P-44.1.

- trusts operating a commercial enterprise in Québec, other than a trust administered by a registered business;
- natural persons who operate a sole proprietorship, whether or not a commercial enterprise, in Québec under a name that does not include their surname and given name.

### **❑ Information that must be filed with the register**

Businesses required to register under the ALPSP must transmit various information to the REQ. For example, regardless of a business's legal form, the following information is required:

- the business's name, domicile and, if the business was previously registered, its Québec Enterprise Number;
- the business's legal form and the statute under which the business was constituted, as well as the name of the State, province or territory in which the business was constituted;
- the business's date of constitution;
- where applicable, the names and personal addresses of the business's shareholders, directors, partners and executive officers who are not members of the board of directors;
- the names and domiciles of the president, the secretary and the chief executive officer, if they are not members of the board of directors, and the positions they hold;
- in order of importance, the enterprise's two main activities and the address of each of its establishments.

In addition, certain additional, more specific information is required for certain juridical forms:

- partnerships:
  - the name and domicile of each partner, a statement that no other person is a member of the partnership and, in the case of a limited partnership, the name and domicile of each general partner and the names and domiciles of the three greatest contributors to the partnership among the special partners,
  - the object pursued by the partnership,
  - if the partnership is a limited liability partnership or is not constituted in Québec, a statement that the liability of some or all of the partners is limited;

- legal persons established for a private interest:
  - the names and domiciles of the three shareholders controlling the greatest number of votes, in order of importance, with mention of the shareholder holding an absolute majority,
  - the name of the State, province or territory in which the amalgamation or division that resulted in the formation of the legal person took place, the date of amalgamation or division and the name, domicile and Québec Enterprise Number of every legal person involved in the amalgamation or division,
  - the title of and reference to the statute under which the amalgamation, division, continuation or other transformation took place,
  - the date of the continuance or other transformation of the legal person,
  - a statement as to the existence or not of a unanimous shareholder agreement, entered into in accordance with the laws of Québec or a Canadian jurisdiction other than Québec, that restricts the powers of the directors or withdraws all powers from the directors;
- commercial trusts:
  - the statute, designated in the constituting act, under which it is governed,
  - the object pursued by the trust.

## 2. Toward greater transparency – Changes announced in Budget 2020-2021

The Organisation for Economic Co-operation and Development (OECD) as well as several international bodies such as Transparency International,<sup>21</sup> Tax Justice Network and the Financial Action Task Force (FATF) are calling for standards to increase the transparency of businesses, regardless of their legal form.

These organizations point to the need to develop and strengthen mechanisms fostering the collection and exchange of financial or fiscal information on businesses. These mechanisms are essential tools for combating money laundering, the financing of terrorist activities and tax evasion and abusive tax avoidance schemes.

Collecting and sharing this type of information among jurisdictions allows for more effective identification of the beneficial owners of legal entities carrying on a business in a particular jurisdiction.

The government held a public consultation in fall 2019 on initiatives to strengthen corporate transparency. All of the participants supported the objective of greater transparency. Several highlighted the importance of making information available to the media, civil society bodies and individuals and businesses that want to know who they are doing business with.

— In addition, some participants stressed the importance of protecting privacy and personal information.

To strengthen corporate transparency, the government intends to:

- introduce the requirement that information on the beneficial owners of businesses must be transmitted to the REQ;
- allow the name of a natural person to be used to search for information in the register.

Measures will be taken to ensure adequate protection of personal information.

Furthermore, the government is planning to introduce measures to improve the quality of information recorded in the register.

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<sup>21</sup> Transparency International is an international non-government organization whose main mission is to combat corruption in governments and government institutions worldwide.



## ❑ **Making it mandatory to transmit information on beneficial owners to the REQ**

### ■ **Beneficial owner**

The concept of “beneficial owner” refers essentially to natural persons:

- who ultimately exercise effective control over a legal person or a particular legal entity;
- who ultimately own or control a legal person or a particular legal entity;
- on whose behalf a transaction is being conducted.

This concept thus makes it possible to target situations where ownership or control is held through a chain of ownership or by any means of control other than direct control, including nominees or trusts.

Accordingly, the name of a natural person who ultimately has a significant interest will have to be disclosed to the REQ. In cases where ownership or control is ultimately held through a trust, the names of the settlor, the trustee and the beneficiaries of the trust will also have to be disclosed.

### ■ **Entities subject to the requirement**

The requirement to transmit to the REQ information on beneficial owners will apply to most of the businesses currently required to register with the register. Essentially, this includes legal persons established for a private interest, partnerships and trusts operating a commercial enterprise, regardless of whether these entities were constituted in Québec.

This requirement will not apply to publicly traded legal persons, which are already subject to several transparency requirements, legal persons established in the public interest and non-profit organizations (NPOs),<sup>22</sup> to which the concept of beneficial owner does not usually apply.

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<sup>22</sup> Additional work will be done to determine if certain NPOs should be subject to the new requirements.

## ■ Legal persons established for a private interest

In addition to the information currently registered in the register by a legal person established for a private interest, the latter will have to identify the natural persons who:

- hold, directly or indirectly, at least 25% of the legal person's voting shares;
- hold, directly or indirectly, at least 25% of all the legal person's shares measured by fair market value;
- exercise direct or indirect control or direction over at least 25% of the legal person's voting shares or all of the legal person's shares measured by fair market value;
- have any direct or indirect influence that, if exercised, would result in control in fact of the legal person;
- hold jointly a proportion of shares or exercise control, direction or influence as contemplated by one of the foregoing situations or having entered into an agreement for that purpose.

It is preferable for businesses as well as users of the register to adopt a coordinated approach with the other Canadian provinces. Therefore, the definition of beneficial owner will be harmonized with that of “individual with significant control” in the *Canada Business Corporations Act*.<sup>23</sup>

## ■ Partnerships and trusts

In the case of partnerships and trusts, the rules applicable to legal persons established for a private interest will be adapted to identify, where applicable, the natural person(s) who control them or benefit directly or indirectly from them.

## ■ Information required on beneficial owners

The information on beneficial owners that will have to be declared by the entities concerned by the new requirement provided for in Budget 2020-2021 will include the beneficial owners':

- surname and given name;
- month and year of birth;
- type of control exercised and percentage held;
- residential address and address for service.

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<sup>23</sup> R.S.C. 1985, chapter C-44.

## ■ Protection of personal information

Corporations are important players in today's economy. Carrying on a business through such a legal person allows it to be financed while limiting the responsibility of its shareholders to their contribution to the corporation's capital stock.

However, the creation of a legal person or other legal instruments should not be used to conceal the identify of the natural persons that actually control these entities.

Nevertheless, these persons have a right to their privacy and to the protection of their personal information. Therefore:

- the public register will indicate only the month and year of birth of the person;
- a natural person will be able to ask the REQ to indicate an address for service or a mailing address instead of a residential address;
- the public will not have access to information on minors if they are beneficiaries of a trust;
- the REQ's current power to prevent consultation of personal information if it poses a serious threat to the safety of the person will be maintained.

Investigative bodies,<sup>24</sup> for their part, will continue to have access to all the information filed with the REQ.

## □ Searches by name using the data in the register

Currently, the REQ does not allow consultation of the register by the public using the surname, given name or address of a natural person.<sup>25</sup> Clearly, this approach ensures optimal protection of the personal information entrusted to the REQ.

However, this approach is being increasingly questioned by various international bodies, civil society groups, media businesses and ordinary citizens who are calling for more transparency.

Given the measures that will be taken to protect the privacy and personal information of the legal persons mentioned above, the government will allow everyone to conduct searches by name in the enterprise register.

Conducting searches by name will allow for better use of the information contained in the enterprise register, increase public protection and foster transparency.

<sup>24</sup> For example, the Commission de la construction du Québec, the Ministère de la Sécurité publique, the Régie du bâtiment du Québec, the Sûreté du Québec, the Unité permanente anticorruption and Revenu Québec.

<sup>25</sup> *Act respecting the legal publicity of sole proprietorships*, section 101.

## **☐ Quality of the information contained in the register**

The information currently required is of a declaratory nature. Corporations that must register with the REQ are responsible for the accuracy of the information they declare.

Verification mechanisms will be put in place to improve the quality of information. More specific recommendations will be made at a later date.

In addition, administrative sanctions will be incorporated into the legislation to foster the quality of information.

## **☐ The proposed changes will come into effect gradually**

To ensure that businesses have enough time to fulfil these new requirements and submit the relevant information to the REQ, the new requirement will apply one year after the legislative amendments have been assented to.

In addition, the public will have access to searches by name one year after the legislative amendments have been assented to.

The REQ will help businesses to comply with this new requirement.

## **☐ Legislative amendments**

The measures announced in Budget 2020-2021 will be included in a bill to be tabled in the coming months.

Section C

REPORT ON THE APPLICATION OF THE  
LEGISLATION RESPECTING A BALANCED  
BUDGET AND THE GENERATIONS FUND

1. *Balanced Budget Act* ..... C.3

1.1 Budgetary balance within the meaning of the  
*Balanced Budget Act* ..... C.3

1.2 Stabilization reserve..... C.5

2. *Act to reduce the debt and establish the  
Generations Fund* ..... C.7

2.1 Debt reduction objectives ..... C.7

2.2 Generations Fund ..... C.8

APPENDIX : Legislative requirements..... C.11



## 1. **BALANCED BUDGET ACT**

Pursuant to the *Balanced Budget Act*, the Minister of Finance must report to the National Assembly, in the budget speech, on the achievement of the objectives of the Act and any variance recorded.

The purpose of the *Balanced Budget Act* is to oblige the government to maintain a balanced budget and, to that end, to table balanced budget estimates. In general, the Act specifies the calculation of the budgetary balance, establishes a stabilization reserve to facilitate the government's multi-year budget planning and sets out the applicable rules in the case of a surplus or an overrun.

— The requirements of the *Balanced Budget Act* are set out in the Appendix.

### 1.1 **Budgetary balance within the meaning of the *Balanced Budget Act***

Under the *Balanced Budget Act*, the objectives of the Act are achieved if the budgetary balance, calculated in accordance with the Act, is zero or positive.<sup>1</sup>

— The budgetary balance corresponds essentially to the surplus or the deficit presented in the Public Accounts (book balance) reduced by the amount of revenues dedicated to the Generations Fund and adjusted to take certain accounting changes into consideration, if applicable.

For fiscal 2019-2020, a balanced budget within the meaning of the *Balanced Budget Act* will be maintained.

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<sup>1</sup> The budgetary data for 2019-2020 and subsequent years presented in this section are forecasts.

TABLE C.1

**Budgetary balance within the meaning of the *Balanced Budget Act***  
(millions of dollars)

Fiscal year	Surplus (deficit) reported in the Public Accounts <sup>(1)</sup>	Generations Fund	Accounting changes and other	Budgetary balance within the meaning of the Act	Annual surplus	Stabilization reserve		Budgetary balance within the meaning of the Act after reserve <sup>(2)</sup>
						Allocations	Uses	
2008-2009	-1 258	-587	—	-1 845	—	-109 <sup>(3)</sup>	1 845	—
2009-2010	-2 940	-725	58 <sup>(4)</sup>	-3 607	—	—	433	-3 174 <sup>(5)</sup>
2010-2011	-2 390	-760	—	-3 150	—	—	—	-3 150 <sup>(5)</sup>
2011-2012	-1 788	-840	—	-2 628	—	—	—	-2 628 <sup>(6)</sup>
2012-2013	-2 515	-961	1 876 <sup>(7)</sup>	-1 600	—	—	—	-1 600 <sup>(8)</sup>
2013-2014	-1 703	-1 121	—	-2 824	—	—	—	-2 824 <sup>(8)</sup>
2014-2015	136	-1 279	418 <sup>(4)</sup>	-725	—	—	—	-725 <sup>(8)</sup>
2015-2016	3 644	-1 453	—	2 191	2 191	-2 191	—	—
2016-2017	4 362	-2 001	—	2 361	2 361	-2 361	—	—
2017-2018	4 915	-2 293	—	2 622	2 622	-2 622	—	—
2018-2019	8 280	-3 477	—	4 803	4 803	-4 803	—	—
2019-2020	4 533	-2 633	—	1 900	1 900	-1 900	—	—

(1) For 2008-2009 to 2018-2019, the amounts correspond to those established in the government's annual consolidated financial statements, without taking into account the adjustments made in subsequent years for the fiscal year concerned.

(2) The budgetary balance within the meaning of the *Balanced Budget Act* after reserve corresponds to the budgetary balance that takes into account the allocations to the stabilization reserve and uses of it in order to maintain a balanced budget.

(3) In accordance with section 32 of the Act (S.Q. 2009, c. 38), the sum of \$109 million, corresponding to the difference between the recorded surplus and the anticipated surplus for 2006-2007, was allocated to the stabilization reserve in 2008-2009.

(4) The *Balanced Budget Act* stipulates that the budgetary balance must be adjusted to take into account certain accounting changes resulting in particular from changes made to the accounting policies of the government or any of its enterprises so as to bring them into compliance with a new standard of the Chartered Professional Accountants Canada (CPA Canada) organization.

(5) In accordance with the *Balanced Budget Act*, the obligation to achieve a balanced budget was suspended in 2009-2010 and in 2010-2011.

(6) For 2011-2012, the budgetary deficit of \$2.6 billion represents an improvement of \$1.2 billion compared to the budgetary deficit target of \$3.8 billion set in the March 2011 Budget pursuant to the *Balanced Budget Act*.

(7) The result of \$1.9 billion stemming from Hydro-Québec's extraordinary loss relative to the closure of the Gentilly-2 nuclear power plant is excluded from the calculation of the budgetary balance for 2012-2013, in accordance with the Act.

(8) The budgetary deficits of \$1.6 billion, \$2.8 billion and \$0.7 billion recorded for 2012-2013, 2013-2014 and 2014-2015, respectively, are allowed pursuant to the *Balanced Budget Act*.



## 1.2 Stabilization reserve

Under the *Balanced Budget Act*, a recorded surplus, which is a budgetary balance that is greater than zero, must be allocated to the stabilization reserve.

This reserve is a budget tool created to facilitate multi-year planning of the government's financial framework.

The balance of the stabilization reserve is adjusted on the basis of recorded surpluses allocated to the reserve or sums used from the reserve for each fiscal year.

The reserve acts like a counter made up of surpluses achieved, but it does not consist of surplus cash. In other words, the stabilization reserve is not money in the bank.

— Such surpluses are used during the year to reduce the government's debt on financial markets.

— If the government uses the stabilization reserve to balance the budget, an amount corresponding to the overrun would have to be borrowed, giving rise to an increase in the debt.

Taking into account the projected \$1.9 billion surplus for fiscal year 2019-2020, which will be allocated to the stabilization reserve, the balance of the reserve will stand at \$13.9 billion as at March 31, 2020.

For fiscal years 2020-2021 to 2024-2025, the government plans to maintain a balanced budget.

TABLE C.2

### Operations of the stabilization reserve (millions of dollars)

Fiscal year	Balance, beginning of year	Allocations	Uses		Balance, end of year
			Balanced budget	Generations Fund	
2015-2016	—	2 191	—	—	2 191
2016-2017	2 191	2 361	—	—	4 552
2017-2018	4 552	2 622	—	—	7 174
2018-2019	7 174	4 803	—	—	11 977
2019-2020	11 977	1 900	—	—	13 877



## 2. **ACT TO REDUCE THE DEBT AND ESTABLISH THE GENERATIONS FUND**

### 2.1 **Debt reduction objectives**

The following debt reduction objectives are set forth in the *Act to reduce the debt and establish the Generations Fund* for fiscal 2025-2026:

- the gross debt must not exceed 45% of GDP;
- the debt representing accumulated deficits must not exceed 17% of GDP.

The requirements of the *Act to reduce the debt and establish the Generations Fund* are set out in the Appendix.

#### ☐ **Reduction of the gross debt**

As at March 31, 2020, the gross debt will stand at \$197.7 billion,<sup>2</sup> which is equivalent to 43.0% of GDP.

- The objective of reducing the gross debt to 45% of GDP has been achieved.
- This objective has been reached six years ahead of schedule.

#### ☐ **Reduction of the debt representing accumulated deficits**

The objective of reducing the debt representing accumulated deficits to 17% of GDP should be achieved in 2022-2023, that is, three years ahead of schedule.

- As announced in the November 2019 economic and financial update, the government intends, for the purpose of monitoring this objective, to use the debt representing accumulated deficits within the meaning of the Public Accounts, that is, without the addition of the stabilization reserve. To that end, amendments will have to be made to the *Act to reduce the debt and establish the Generations Fund*.

As at March 31, 2020, the debt representing accumulated deficits within the meaning of the Public Accounts will stand at \$95.9 billion, or 20.9% of GDP.

<sup>2</sup> Section G of the *Québec Budget Plan – March 2020* provides detailed information on the Québec government's debt.

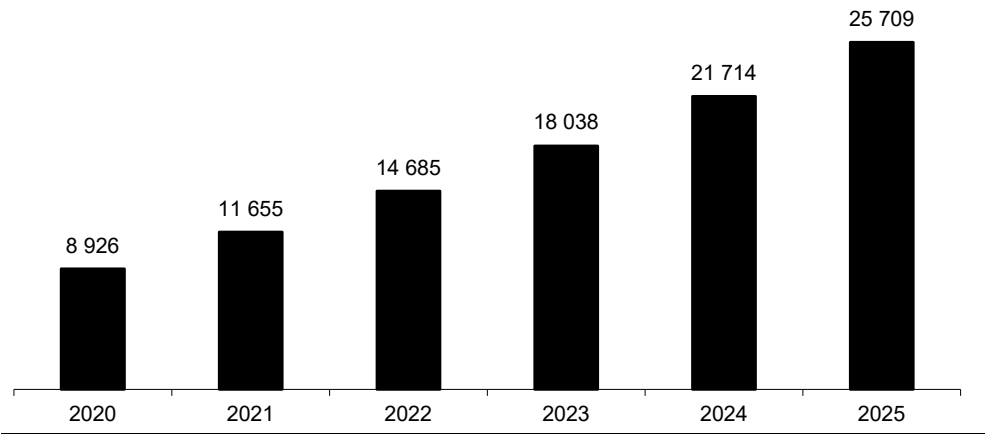
## 2.2 Generations Fund

### □ Evolution of the Generations Fund

Taking into account the deposits made since the creation of the Fund and those forecast, as well as the use of the Fund to repay borrowings on financial markets,<sup>3</sup> the book value of the Generations Fund will stand at \$11.7 billion as at March 31, 2021.

CHART C.1

#### **Growth in the book value of the Generations Fund as at March 31** (millions of dollars)



<sup>3</sup> For the purposes of sound risk management, \$10 billion was withdrawn from the Generations Fund over two years (\$8 billion in 2018-2019 and \$2 billion in 2019-2020) to reduce Québec's debt on financial markets and lower the government's interest charges. In 2013-2014, the Generations Fund had also been used (\$1 billion) to repay borrowings on financial markets.

## ❑ Deposits in the Generations Fund

Deposits of dedicated revenues in the Generations Fund will amount to \$2.7 billion in 2020-2021.

Deposits to the Fund come mainly from:

- water-power royalties by Hydro-Québec and private producers of hydro-electricity;
- income from the indexation of the price of heritage electricity;
- an additional contribution of \$215 million per year from Hydro-Québec;
- mining revenues collected by the government;
- an amount of \$500 million per year drawn from the specific tax on alcoholic beverages;
- investment income.

TABLE C.3

### Generations Fund (millions of dollars)

	March 2019		March 2020					
	2019-2020	Adjustments	2019-2020 <sup>(1)</sup>	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
<b>Book value, beginning of year</b>	<b>7 922</b>	<b>371</b>	<b>8 293</b>	<b>8 926</b>	<b>11 655</b>	<b>14 685</b>	<b>18 038</b>	<b>21 714</b>
<b>Dedicated revenues</b>								
Water-power royalties								
Hydro-Québec	706	35	741	763	776	818	829	838
Private producers	102	—	102	103	105	106	108	111
<b>Subtotal</b>	<b>808</b>	<b>35</b>	<b>843</b>	<b>866</b>	<b>881</b>	<b>924</b>	<b>937</b>	<b>949</b>
Indexation of the price of heritage electricity	305	12	317	388	525	635	750	855
Additional contribution from Hydro-Québec	215	—	215	215	215	215	215	215
Mining revenues	245	34	279	283	301	325	358	384
Specific tax on alcoholic beverages	500	—	500	500	500	500	500	500
Unclaimed property	15	5	20	15	15	15	15	15
Investment income <sup>(2)</sup>	416	43	459	462	593	739	901	1 077
<b>Total dedicated revenues</b>	<b>2 504</b>	<b>129</b>	<b>2 633</b>	<b>2 729</b>	<b>3 030</b>	<b>3 353</b>	<b>3 676</b>	<b>3 995</b>
Use of the Generations Fund to repay borrowings	-2 000	—	-2 000	—	—	—	—	—
<b>BOOK VALUE, END OF YEAR</b>	<b>8 426</b>	<b>500</b>	<b>8 926</b>	<b>11 655</b>	<b>14 685</b>	<b>18 038</b>	<b>21 714</b>	<b>25 709</b>

(1) For information purposes, the market value of the Generations Fund as at December 31, 2019, was \$9.2 billion, or \$1.0 billion higher than its book value at that date.

(2) The investment income of the Generations Fund corresponds to realized investment income (interest, dividends, gains on the disposal of assets, etc.). The forecast may thus be adjusted upward or downward according to the timing of realized gains or losses. In addition to the realized gains from withdrawals from the Generations Fund, an annual return of 4.8% is expected, a rate based on five historic years.



## APPENDIX : LEGISLATIVE REQUIREMENTS

### ❑ ***Balanced Budget Act***

The *Balanced Budget Act* (CQLR, chapter E-12.00001) was passed unanimously by the National Assembly on December 19, 1996. The Act stipulates that the government must table balanced budget estimates and sets out the applicable rules in the case of a surplus or an overrun.

Under the *Balanced Budget Act*, if an overrun of less than \$1 billion is recorded for a fiscal year, the government must achieve an equivalent surplus in the next fiscal year.

The Act stipulates that the government may incur overruns for a period of more than one year, where such overruns total at least \$1 billion as a result of circumstances defined in the Act, namely, a disaster having a major impact on revenue or expenditure, a significant deterioration of economic conditions or a change in federal programs of transfer payments to the provinces that would substantially reduce transfer payments to the government.

If there is an overrun of at least \$1 billion, the Minister of Finance must report to the National Assembly on the circumstances justifying that the government incur such overruns. In addition, the Minister must present a financial plan allowing those overruns to be offset within a five-year period and apply offsetting measures covering at least \$1 billion as of the fiscal year in which such an overrun is anticipated, or the following year in the case where an overrun is recorded. He must offset at least 75% of those overruns within the first four fiscal years of that period.

The Act also provides for a stabilization reserve in order to facilitate the government's multi-year budget planning and, subsidiarily, to allow sums to be deposited in the Generations Fund. Any surpluses recorded for a fiscal year are automatically allocated to this reserve whose main purpose is to maintain a balanced budget.

Lastly, the Act stipulates that the Minister of Finance must report to the National Assembly, in the budget speech, on the objectives of the Act, their achievement and any variance recorded, and on the operations of the stabilization reserve.

## ❑ **Act to reduce the debt and establish the Generations Fund**

The *Act to reduce the debt and establish the Generations Fund* (CQLR, chapter R-2.2.0.1) was passed on June 15, 2006. This statute established the Generations Fund, a fund dedicated exclusively to repaying the gross debt.

In 2010, the Act was amended to revise the concepts of debt used and the debt reduction objectives that must be achieved by 2025-2026.

The Act stipulates that, for fiscal year 2025-2026, the gross debt must not exceed 45% of GDP and the debt representing accumulated deficits must not exceed 17% of GDP.

Under the provisions of the Act, the Generations Fund is constituted of the following sums from revenue sources dedicated to debt repayment:

- water-power royalties paid by Hydro-Québec and private producers of hydro-electricity;
- part of Hydro-Québec's earnings on the sale of electricity outside Québec as a result of its increased generating capacity;<sup>4</sup>
- revenues from the indexation of the price of heritage electricity since 2014;
- fees or charges for water withdrawal;<sup>4</sup>
- since 2015-2016, the total of fees, duties, rentals and mining royalties provided for in the *Mining Tax Act* and the *Mining Act*. This amount is established once the duties allocated to the mining heritage and mining activity management components of the Natural Resources Fund have been subtracted;
- in 2014-2015 and 2015-2016, \$100 million a year, increasing to \$500 million a year as of 2016-2017, from the specific tax on alcoholic beverages;
- from 2017-2018 to 2043-2044, \$215 million per year from Hydro-Québec;
- sale of government assets, rights or securities;<sup>4</sup>
- unclaimed property administered by Revenu Québec;
- gifts, legacies and other contributions received by the Minister of Finance;
- income generated by the investment of the sums making up the Generations Fund.

The Act allows the government to order that a part, which it establishes, of any sum that would otherwise have been attributed to the General Fund of the Consolidated Revenue Fund be allocated to the Generations Fund.

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<sup>4</sup> An order in council of the government is required to set the portion of these amounts that must be allocated to the Generations Fund.



Similarly, that Act authorizes the government, subject to the provisions of the *Balanced Budget Act*, to use the stabilization reserve to deposit sums in the Generations Fund.

The sums constituting the Generations Fund are deposited with the Caisse de dépôt et placement du Québec and managed in accordance with an investment policy determined by the Minister of Finance, in collaboration with representatives of the Caisse.

The Act also stipulates that the Minister of Finance may take any sum from the Generations Fund and use it to repay the debt.

Lastly, the Act stipulates that the Minister of Finance must report to the National Assembly, in the budget speech, on the evolution of the debt representing accumulated deficits and of the gross debt, on the sums constituting the Generations Fund and on any sums used to repay the gross debt.



Section D

MEASURES THAT REQUIRE LEGISLATIVE OR  
REGULATORY AMENDMENTS

1. Measures that Require Legislative or Regulatory  
Amendments ..... D.3



# 1. MEASURES THAT REQUIRE LEGISLATIVE OR REGULATORY AMENDMENTS

Certain measures presented in the 2020-2021 budget documents require legislative or regulatory amendments that are not of a fiscal nature. They will be presented by the Minister of Finance in the framework of a bill aimed mainly at implementing certain provisions of the March 10, 2020 budget speech or by the ministers responsible for the laws and regulations requiring amendments.

## ☐ Standardizing fees for childcare services at school

Currently, the fees charged to parents for childcare services at school vary from one institution to another and according to the regions. As of 2020-2021, fees for childcare services at school will be standardized and capped out to promote fairness, regardless of the school attended, the region and the attendance status.

Amendments will have to be made to the *Regulation respecting childcare services provided at school* (CQLR, chapter I-13.3, r. 11) to standardize these fees.

## ☐ Accelerating eligibility for more generous benefits under the Social Solidarity Program

Persons whose parents received the supplement for handicapped children requiring exceptional care will be able to benefit from accelerated eligibility for more generous benefits under the Social Solidarity Program. Currently, to be eligible for these more generous benefits, a person must have received benefits under the Social Solidarity Program for at least 66 of the preceding 72 months.

The calculation of the length of time a person has been covered by the Social Solidarity Program will be modified to include the time accumulated as a beneficiary receiving the supplement for handicapped children requiring exceptional care.

Amendments will have to be made to the *Individual and Family Assistance Act* (CQLR, chapter A-13.1.1) and the *Individual and Family Assistance Regulation* (CQLR, chapter A-13.1.1, r. 1) to implement this measure. Details of this measure are presented in Section D, “Improving Services and Meeting the Needs of Quebecers,” in the *Québec Budget Plan – March 2020*.

## ☐ Recognizing periods of low earnings for parents of severely disabled children

To recognize the important role of parents of severely disabled children, the government intends to modify the base plan of the Québec Pension Plan (QPP). The period excluded from the base contributory period for a parent who leaves the labour market to take care of a child in respect of whom the parent receives the supplement for handicapped child requiring exceptional care, will be raised from 7 to 18 years.

As a result of this change, a parent who has to stop working in order to take care of his or her child will not see a reduction in the pension received for the 18 years taken into consideration and will remain eligible for all QPP benefits.

Amendments will have to be made to the *Act respecting the Québec Pension Plan* (CQLR, chapter R-9) to implement this measure. Details of this measure are presented in Section D, “Improving Services and Meeting the Needs of Quebecers,” in the *Québec Budget Plan – March 2020*.

### **❑ Reforming the crime victims compensation plan**

The government wants to review the support and terms of the crime victims compensation plan with a view to improving assistance services, better meeting the diverse needs of crime victims and redefining the criteria for and the type of financial assistance provided.

Amendments will have to be made to the *Crime Victims Compensation Act* (CQLR, chapter I-6). Details of this measure are presented in Section D, “Improving Services and Meeting the Needs of Quebecers,” in the *Québec Budget Plan – March 2020*.

### **❑ Abolishing the Early Childhood Development Fund**

The Early Childhood Development Fund was created in 2009 to support a ten-year partnership for funding measures aimed at children aged 0 to 5 living in poverty. As this partnership ends in 2020, maintenance of the fund is no longer required.

The *Act to establish an early childhood fund* (CQLR, chapter F-4.0022) will have to be repealed, and the expenditures associated with the fund will be incorporated as of 2020-2021 in program spending intended for this clientele.

### **❑ Enhancing sports and recreational facilities**

Amendments will have to be made to the *Act to establish the Sports and Physical Activity Development Fund* (CQLR, chapter F-4.003) and to the annual decrees indicating the relative proportion of each of the two components (Infrastructures and Events) of the Sports and Physical Activity Development Fund.

These changes will make it possible to increase the annual levy from a portion of the proceeds of the tobacco tax for the benefit of the fund.

Details of this measure are presented in Section C, “Increasing the Potential of the Economy and Creating Wealth,” in the *Québec Budget Plan – March 2020*.

## ❑ **Strengthening corporate transparency**

The government is continuing its efforts to strengthen corporate transparency. To that end, it intends to prohibit the issue of subscription warrants or stock options in bearer form.

Amendments will have to be made to the *Business Corporations Act* (CQLR, chapter S-31.1) to implement this measure. Details of this measure are presented in Section B, “Plan to Ensure Tax Fairness,” in *Additional Information 2020-2021*.

## ❑ **Stepping up actions to fight tax evasion and tax avoidance**

The government is stepping up its actions to fight tax evasion and tax avoidance. Targeted initiatives will be introduced in sectors where specific problems have been observed. These actions will make it possible to optimize government interventions, which intends, in particular, to:

- increase efforts to combat tobacco smuggling;
- tighten regulations in the personnel placement agency sector;
- grant more powers to inspectors in the remunerated passenger transportation sector.

To implement these measures, amendments will have to be made to:

- the *Tobacco Tax Act* (CQLR, chapter I-2);
- the *Tax Administration Act* (CQLR, chapter A-6.002);
- the *Taxation Act* (CQLR, chapter I-3);
- the *Act respecting the Québec sales tax* (CQLR, chapter T-0.1);
- the *Regulation respecting personnel placement agencies and recruitment agencies for temporary foreign workers* (O. C. 1148-2019 [2019] 151 G.O.Q. II, 2909).

Details of these measures are presented in Section B, “Plan to Ensure Tax Fairness,” in *Additional Information 2020-2021*.

## ❑ **Developing public land**

The government wishes to better manage and increase the development of public land in order to benefit from the land's full potential and contribute to the economic vitality of Quebec's regions. New initiatives are therefore being provided to:

- increase the number of public-land rights issued on the lands of the domain of the State (particularly resort leases, but also for commercial and industrial purposes);
- reduce processing timelines and simplify the procedures for the clientele;
- implement a surveying program for land under lease from the State;
- monitor rights compliance and counter occupancies without rights.

Amendments will have to be made to the *Act respecting the Ministère des Ressources naturelles et de la Faune* (CQLR, chapter M-25.2) so that land management and development activities will be financed by the Territorial Information Fund and so that revenues resulting from those activities will be credited to the fund. It is proposed that these amendments take effect April 1, 2021. Details of this measure are presented in Section C, "Increasing the Potential of the Economy and Creating Wealth," in the *Québec Budget Plan – March 2020*.

## ❑ **Simplifying the regulations governing alcoholic beverages**

Québec's alcoholic beverage sector has changed significantly in recent years with, among other things, the arrival of microbrewers and new consumer habits. To support Québec's alcoholic beverage industry, the government will propose to ease the regulatory and legislative requirements, in particular to:

- adjust the monetary administrative penalties issued by the Régie des alcools, des courses et des jeux;
- reduce the requirements governing alcoholic beverages fabricated by a permit holder and sold where they are produced.

It is also proposed to accelerate the application date of certain amendments provided for in the *Act to modernize the legal regime applicable to liquor permits and to amend various other legislative provisions* (S.Q 2018, c.20) with regard to alcoholic beverages. These amendments provide for, in particular:

- introducing permits for seasonal retailers;
- easing the conditions governing restaurant permits;
- reducing the requirements for obtaining an event permit;
- simplifying the rules for participating in events to present or discover alcoholic beverages.



To implement these measures, amendments will have to be made to:

- the *Act respecting liquor permits* (CQLR, chapter P-9.1);
- the *Act respecting the Société des alcools du Québec* (CQLR, chapter S-13);
- the *Act respecting offences relating to alcoholic beverages* (CQLR, chapter I-8.1);
- the *Regulation respecting duties and costs payable under the Act respecting liquor permits* (CQLR, chapter P-9.1, r. 3);
- the *Regulation respecting liquor permits* (CQLR, chapter P-9.1, r. 5).

Details of this measure are presented in Section C, “Increasing the Potential of the Economy and Creating Wealth,” in the *Québec Budget Plan – March 2020*.

### **❑ Modifying publicity contest requirements**

Many international companies choose to exclude Quebecers from participating in their contests to avoid having to pay the duties associated with the regulation and having to comply with the administrative red tape.

Out of a concern for fairness and to foster the inclusion of Quebecers during international publicity contests, the government will make changes to that end.

Amendments will have to be made to the *Act respecting lotteries, publicity contests and amusement machines* (CQLR, chapter L-6) to implement this measure. Details of this measure are presented in Section C, “Increasing the Potential of the Economy and Creating Wealth,” in the *Québec Budget Plan – March 2020*.

### **❑ Making administrative changes for the labour funds**

Amendments will have to be made to the *Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* (CQLR, F-3.1.2) and the *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)* (CQLR, chapter F-3.2.1) for the labour funds to streamline the administrative process concerning prescription of certain formalities and extend the transfer of investments to former spouses.





