

HARMONIZATION WITH CHANGES OF A TAX NATURE ANNOUNCED BY THE GOVERNMENT OF CANADA AND ADJUSTMENTS TO CERTAIN TAX MEASURES

This information bulletin sets out the position of the Ministère des Finances du Québec with respect to proposed changes to various tax measures made public by the Department of Finance Canada in its February 4, 2022 news release in connection with income tax, its April 7, 2022 budget and its April 29, 2022 news release in connection with hybrid mismatch arrangements.

It announces the easing of the refundable tax credit to foster the retention of experienced workers and of the refundable tax credit for small and medium-sized businesses that employ persons with a severely limited capacity for employment, so as to allow more corporations to claim one or the other of these tax credits.

In addition, it introduces a consequential amendment to the additional deduction for transportation costs incurred by remote small and medium-sized businesses and to the income averaging mechanism for forest producers, to take into account the change announced to the small business deduction as part of the harmonization measures.

It also makes public changes to the refundable tax credit relating to mining, petroleum, gas and other resources, which reflect the Québec government's intention to end petroleum exploration and development.

Lastly, this bulletin details the tax effects stemming from the extension of the income replacement indemnity for victims of road accidents.

To obtain information on the matters dealt with in this information bulletin, contact the Secteur du droit fiscal, de l'optimisation des revenus et des politiques locales et autochtones at secteurdudroitfiscaletdelafiscalite@finances.gouv.qc.ca.

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1. FEDERAL TAX LEGISLATION AND REGULATIONS

1.1 Harmonization with the February 4, 2022 Department of Finance Canada news release

On February 4, 2022, the Department of Finance Canada announced, by way of a news release, legislative proposals relating to the *Income Tax Act* and other legislation.¹ These legislative proposals are intended to follow up on certain fiscal measures proposed in the federal budget tabled on April 19, 2021, and to implement other fiscal measures.

The Ministère des Finances has already made its position known in respect of some of these fiscal measures in *Information Bulletin 2020-9*, *Budget 2021-2022* and *Information Bulletin 2021-5*.²

The Ministère des Finances wants to make public its position on the harmonization of Québec's tax legislation and regulation with federal tax legislation and regulation with respect to the other fiscal measures included in the legislative proposals.

□ Measures retained

Québec's fiscal legislation and regulation will be amended to incorporate, with adaptations on the basis of their general principles, some of the income tax measures included in the legislative proposals that were made public on February 4, 2022, by the Department of Finance Canada. However, the amendments to the Québec tax system will be adopted only after the assent of any federal legislation or the adoption of any federal regulation giving effect to the retained measures, taking into account the technical amendments that may be made prior to the assent or adoption. For greater clarity, these amendments will be applicable on the same dates as those retained for the application of the federal measures with which they are harmonized.

These measures concern:

- extending eligibility for the immediate expensing measure to sole proprietorships and certain partnerships;
- allocations to redeeming unit holders of mutual fund trusts;
- the mandatory disclosure of uncertain tax treatments, subject to the clarifications below;

¹ DEPARTMENT OF FINANCE CANADA, *Department of Finance consulting on draft tax proposals*, February 4, 2022, [Online], [<https://www.canada.ca/en/department-finance/news/2022/02/department-of-finance-consulting-on-draft-tax-proposals.html>]. Certain amendments included in the February 4, 2022 legislative proposals can also be found in Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures, presented to the House of Commons Chamber on April 28, 2022, [Online], [<https://www.parl.ca/DocumentViewer/en/44-1/bill/C-19/first-reading>].

² MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2020-9*, June 29, 2020, p. 10; *Id.*, *Budget 2021-2022 – Additional Information*, March 25, 2021, pp. A.57-A.58; *Id.*, *Information Bulletin 2021-5*, June 30, 2021, pp. 11-14.

- avoidance of tax debts;
- the interest deductibility limitation measure.³

■ **Mandatory disclosure of uncertain tax treatments**

For the purposes of the federal tax system, a reporting corporation that in a given taxation year has at least one reportable uncertain tax treatment for that year shall file with the Minister of National Revenue (federal) in respect of each reportable uncertain tax treatment an information return in prescribed form containing prescribed information.

In respect of this new obligation, a reporting corporation is a corporation, which, for a taxation year, has relevant financial statements⁴ for the year, has assets that have a total carrying value of \$50 million or more at the end of the year, and is required to file a return of income for the year for the application of the federal tax system.

Briefly, a reportable uncertain tax treatment of a corporation for a taxation year is a tax treatment of the corporation in respect of which uncertainty is reflected in relevant financial statements of the corporation for the year.

When a corporation is required to report such an information return for a taxation year, the normal reassessment period will only begin in respect of the operation related to the reportable uncertain tax treatment when it has complied with this obligation.

The legislative proposals also stipulate that a corporation that fails to report a reportable uncertain tax treatment on or before the day required will be liable, for each such failure to report, to a \$2 000 penalty for each week in which the failure continues, up to a maximum of \$100 000.

Québec's tax legislation will be amended to incorporate therein the measure pertaining to the mandatory disclosure of uncertain tax treatments, subject to the specific rules indicated below.

Accordingly, a corporation subject to tax under Part I of the Québec *Taxation Act* for a given taxation year and which will be a reporting corporation with the obligation to file for the year for the application of federal tax legislation an information return concerning an uncertain tax treatment will be required to disclose to the Québec Minister of Revenue for the year this uncertain tax treatment.

This disclosure must be made by means of the prescribed form for the application of the Québec tax system and be filed with the Québec Minister of Revenue not later than the filing-due date applicable to the corporation for the given taxation year. The form must be accompanied by a copy of the information return and any other document filed with the Minister of National Revenue (federal) pertaining to the uncertain tax treatment.

³ Chapter V.2 of Title II of Book I of Part I of the Taxation Act, relating to the exercise of certain elections, will apply to elections under these new rules.

⁴ The expression "relevant financial statements" is defined in paragraph 237.5(1) in the federal *Income Tax Act*, as proposed. This usually refers to the corporation's audited financial statements, or the audited consolidated financial statements of a group of which the corporation is a member, that are prepared in accordance with International Financial Reporting Standards or other country-specific generally accepted accounting principles (GAAP) relevant for domestic public companies.

Moreover, the normal reassessment period will only begin with respect to the operation pertaining to the uncertain tax treatment to be declared when the corporation subject to disclosure will disclose to the Québec Minister of Revenue the uncertain tax treatment.

Lastly, a corporation that fails to disclose to the Québec Minister of Revenue an uncertain tax treatment that it is obliged to disclose will incur for each failure for the application of the Québec tax system a penalty of \$100 per day, calculated starting from the second day that the omission lasts, up to a maximum of \$5 000.

Measure not retained

Moreover, the measure relating to the registration and revocation rules applicable to charities will not be retained, as the Québec tax system does not contain similar provisions.

Subsequent announcement

The Ministère des Finances is continuing to study the proposed amendments to the federal tax legislation and regulation and will make known at a later date its position on whether or not the Québec tax legislation and regulation should be harmonized with the federal tax legislation and regulation with regard to electronic filing, certification of tax and information returns, as well as electronic payments.

1.2 Harmonization with tax measures announced in the April 7, 2022 federal budget

On April 7, 2022, the Minister of Finance of Canada tabled the 2022 federal budget. At that time, she submitted in the House of Commons additional information describing in detail each of the tax measures proposed in the budget and notices of ways-and-means motions amending accordingly federal tax legislation and regulation.⁵

Income tax measures

Québec tax legislation and regulation will be amended to incorporate certain income tax-related measures proposed in the 2022 federal budget. However, the changes to the Québec tax system will only be adopted after the assent of any federal legislation or the adoption of any federal regulation implementing the measures retained, taking into account technical amendments that may be made prior to the assent or adoption. For greater clarity, these changes will be applicable on the same dates as those retained for the application of the federal measures with which they are harmonized.

⁵ Department of Finance Canada, *Budget 2022 – Tax Measures: Supplementary information* [online], April 7, 2022, [<https://budget.gc.ca/2022/pdf/tm-mf-2022-en.pdf>].

■ Measures retained

Québec tax legislation and regulation will be amended⁶ to incorporate, with adaptations on the basis of their general principles, the measures pertaining to:

1. the establishment of the Tax-Free First Home Savings Account (BR 1);⁷
2. the enhancement of the First-Time Home Buyers' Tax Credit (BR 2);
3. the residential property flipping rule (BR 5);
4. the broadening of the Medical Expense Tax Credit for surrogacy and other expenses (BR 7);
5. the annual disbursement quota for registered charities (BR 8);
6. charitable partnerships (BR 9);
7. tax measures for kinship care providers and foster parents of indigenous children (BR 10);
8. borrowing by defined benefit pension plans (BR 23);
9. reporting requirements for RRSPs and RRIFs (BR 24);
10. the addition of capital cost allowance classes for carbon capture, utilization, and storage equipment, the eligibility of such classes for the Accelerated Investment Incentive and the addition of classes of intangible exploration expenses and development expenses associated with storing CO₂ (BR 26, in part);
11. the capital cost allowance for clean energy equipment – air-source heat pumps (BR 27, in part);
12. the elimination of flow-through shares regime for oil, gas, and coal activities (BR 29);⁸
13. the broadening of eligibility for the small business deduction (BR 30);
14. the use of the International Financial Reporting Standards for insurance contracts (IFRS 17) for tax purposes, including adjustments made with respect to the contract service margin, the transitional rules, and adjustments to the Part VI tax base (BR 31);⁹

⁶ However, certain measures adopted might not require any amendment to Québec tax legislation or regulation.

⁷ The references between parentheses correspond to the number of the budget resolution (BR) of the *Notice of Ways and Means Motions to amend the Income Tax Act and Other Legislation* tabled in the House of Commons on April 7, 2022.

⁸ For greater clarity, given the amendments to the flow-through share regime pertaining to oil, gas, or coal exploration or development costs, an individual may no longer deduct an amount in pursuance of the additional deduction in respect of certain exploration expenses incurred in Québec or the additional deduction in respect of certain surface mining exploration expenses or oil and gas exploration expenses incurred in Québec when such amounts are attributable to oil, gas, or coal activities.

⁹ Consequential amendments will be made to the Part VI.1 tax base of the *Taxation Act*.

15. hedging and short selling by Canadian financial institutions (BR 32 and 33);
16. the application of the general anti-avoidance rule to tax attributes (BR 34 and 35);
17. to substantive Canadian-controlled private corporations (CCPCs), with respect to the taxation of income distributed by a corporation (tax pools)¹⁰ and the modification of the relevant tax factor applicable to CCPCs and substantive CCPCs (BR 36 and 37 in part).

■ Measures not retained

Certain measures have not been retained because they do not correspond to the characteristics of the Québec tax system or because the latter is satisfactory or does not contain similar provisions. The measures concern:

- the Multigenerational Home Renovation Tax Credit (BR 3);
- the Home Accessibility Tax Credit (BR 4);
- the Labour Mobility Deduction for Tradespeople (BR 6);
- the proposed amendments to the *Children's Special Allowances Act*, the *Children's Special Allowance Regulations*, and the rules governing the Canada Workers Benefit and the Canada Child Benefit stipulated by the *Income Tax Act* (BR 11 to 22);
- the Canada Recovery Dividend and the additional tax on banks and life insurers (BR 25);
- the Investment Tax Credit for Carbon Capture, Utilization, and Storage (BR 26, in part);
- the rate reduction for zero-emission technology manufacturers – air-source heat pumps (BR 27, in part);
- the establishment of a Critical Mineral Exploration Tax Credit (BR 28);
- to substantive CCPCs with respect to the refundable tax mechanisms on investment income earned by a corporation¹¹ (BR 37 in part);
- the exchange of tax information on digital economy platform sellers (BR 38);
- the withholding tax for non-resident using interest coupon stripping arrangements (BR39).

¹⁰ These amendments relate to the determination of the tax pools for CCPCs and substantive CCPCs, namely the low rate income pool, the general rate income pool and the capital dividend account.

¹¹ These Income Tax Act mechanisms include the refundable tax on CCPCs investment income under Part I and the Part IV tax.

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

Given the general principle of harmonizing the Québec sales tax (QST) system with the goods and services tax and the harmonized sales tax (GST/HST) system, changes will be made to the QST tax system to incorporate, by adapting it in accordance with its general principles, the federal measure relating to the GST/HST health care rebate (BR 1).¹²

However, the changes to the QST system will be adopted only following assent to any federal statute giving effect to the federal measure, taking into account any technical amendments that may be made prior to the assent. In addition, these changes will apply from the same date as the date chosen for the application of the federal measure with which they harmonize.

It should also be noted that it was previously announced in *Information Bulletin 2022-3* of April 29, 2022 that the QST system would be harmonized with the proposed amendments to the GST/HST system announced in the April 7, 2022 federal budget concerning the measure relating to the application of the GST/HST on assignment sales by individuals (BR 2).

1.3 Harmonization with the April 29, 2022 Department of Finance Canada news release relating to hybrid mismatch arrangements

The Action 2 report of the OECD's Base Erosion and Profit Shifting Project Action Plan¹³ recommends detailed rules for countries to adopt in order to ensure that multinational enterprises cannot obtain tax benefits from the use of hybrid mismatch arrangements. The Action 2 recommendations reflect a broad international consensus that hybrid mismatch arrangements significantly erode the tax bases of affected countries. They can also have the effect of providing an unfair competitive advantage to multinational enterprises over domestic businesses.

In its April 19, 2021 budget, the federal government committed to implementing rules consistent with the Action 2 recommendations.¹⁴

On April 29, 2022, the Department of Finance Canada issued a news release announcing legislative proposals to amend the *Income Tax Act*¹⁵ in relation to hybrid mismatch arrangements.

¹² The references between parentheses correspond to the budget resolution (BR) numbers of the Notice of Ways and Means Motion to amend the *Excise Tax Act* tabled in the House of Commons on April 7, 2022.

¹³ OECD (2017), *Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 – 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, [Online], [<https://www.oecd.org/ctp/neutralising-the-effects-of-hybrid-mismatch-arrangements-action-2-2015-final-report-9789264241138-en.htm>].

¹⁴ DEPARTMENT OF FINANCE CANADA, *Budget 2021 – A Recovery Plan for Jobs, Growth, and Resilience*, [Online], April 19, 2021, pp. 647-649 [<https://www.budget.gc.ca/2021/pdf/budget-2021-en.pdf>].

¹⁵ *Id.*, *Government of Canada releases draft legislative proposals to address “hybrid mismatch arrangement” tax avoidance schemes*, April 29, 2022, [Online], [<https://www.canada.ca/en/department-finance/news/2022/04/government-of-canada-releases-draft-legislative-proposals-to-address-hybrid-mismatch-arrangement-tax-avoidance-schemes.html>].

Briefly, hybrid mismatch arrangements are cross-border tax avoidance structures that exploit differences in the income tax treatment of business entities or financial instruments between two or more countries to produce mismatches in tax results. The proposed rules are intended to neutralize a mismatch by aligning the Canadian income tax treatment with the income tax treatment in the foreign country.

The April 29, 2022 legislative proposals therefore include rules addressing payments made under hybrid financial instrument arrangements, hybrid transfer arrangements and substitute payment arrangements.

The proposals implement a primary operative hybrid mismatch rule, which neutralizes a deduction/non-inclusion mismatch arising from a payment under a hybrid mismatch arrangement by restricting the amount that is deductible in respect of the payment. They also implement a secondary operative hybrid mismatch rule, which neutralizes a deduction/non-inclusion mismatch arising from a payment under a hybrid mismatch arrangement by including an amount in the income of a recipient of the payment. Lastly, the proposed rules also implement a limitation on the deduction of certain amounts in respect of dividends received by the taxpayer from a foreign affiliate, generally to the extent that a foreign income tax deduction is available in respect of the dividend to the affiliate or certain other entities.

These rules will apply to payments made after July 1, 2022, including payments made under arrangements entered into before that date.

The Québec tax system is, in general, harmonized with the federal tax system with respect to several international tax measures, including those relating to the foreign affiliate regime. In addition, the Québec government agrees with the objectives of the federal government and the OECD with respect to the proposed amendments relating to hybrid mismatch arrangements.

Accordingly, Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the amendments to the federal tax legislation relating to hybrid mismatch arrangements made public on April 29, 2022, with the exception of the amendments relating to Part XIII tax, since the Québec tax system does not have a similar provision.

Moreover, the changes to the Québec tax system will only be adopted following assent to any federal statute giving effect to these legislative proposals, taking into account technical amendments that may be made prior to assent. The changes will be applicable on the same date as the one retained for the application of the legislative proposals with which they are harmonized.

2. ANNOUNCED AMENDMENTS TO THE REFUNDABLE TAX CREDIT TO FOSTER THE RETENTION OF EXPERIENCED WORKERS

The refundable tax credit to foster the retention of experienced workers (hereinafter referred to as the “tax credit for experienced workers”) was introduced on March 21, 2019 to encourage small and medium sized businesses to hire or retain workers aged 60 or over.¹⁶

¹⁶ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2019-2020 – Additional Information*, March 21, 2019, pp. A.7-A.13.

Briefly, this refundable tax credit is granted to a qualified corporation that employ individuals aged 60 or over. It is calculated on the employer contributions paid by the corporation in respect of such an employee.¹⁷ The rate of the refundable tax credit varies based, firstly, on the individual's age and, secondly, the corporation's total payroll.¹⁸

Thus, in respect of an employee aged at least 60 but no older than 64, the tax credit that can be claimed by a qualified corporation with a total payroll of \$1 million or less is calculated at a rate of 50% and can total as much as \$1 250 annually. In respect of an employee aged at least 65, the tax credit such a corporation can claim is calculated at a rate of 75% and can total as much as \$1 875 annually. The tax credit rate decreases linearly when the corporation's total payroll is between \$1 million and the total payroll threshold.¹⁹

The tax credit of a qualified corporation for a taxation year is calculated by multiplying by the applicable rate the amount the corporation paid as employer contributions for the calendar year ended in the taxation year in relation to the salary, wages or other remuneration that the corporation paid, allocated, granted, awarded or attributed in the calendar year to an employee who was 60 years of age or older on January 1 of the calendar year.

A qualified corporation that is a member of a qualified partnership, at the end of a fiscal period of the partnership that ends in a taxation year of the corporation, can also claim, for the taxation year, the refundable tax credit on its share of the employer contributions paid by the qualified partnership for the calendar year ended in the fiscal period, in relation to the salary, wages or other remuneration that the partnership paid, allocated, granted, awarded or attributed in the calendar year to an employee who is at least 60 years old on January 1 of that calendar year. The tax credit rate is then determined based on the age of the employee and the partnership's total payroll for that calendar year.

For the purposes of the tax credit, a qualified corporation, for a taxation year, means a corporation that, among other things, carries on in the year a business in Québec and has an establishment there, whose paid-up capital, for the year, is less than \$15 million²⁰ and, except where the corporation is a primary and manufacturing sectors corporation, whose total remunerated hours of its employees, for the year, exceeds 5 000.

¹⁷ The employer contributions covered by the tax credit are those paid under section 59 of the *Act respecting parental insurance* (CQLR, chapter A-29.011), section 39.0.2 of the *Act respecting labour standards* (CQLR, chapter N-1.1), section 34 of the *Act respecting the Régie de l'assurance maladie du Québec* (CQLR, chapter R-5) and section 52 of the *Act respecting the Québec Pension Plan* (CQLR, chapter R-9), as well as that paid under the *Act respecting industrial accidents and occupational diseases* (CQLR, chapter A-3.001).

¹⁸ The term "total payroll" is used within the meaning of the *Act respecting the Régie de l'assurance maladie du Québec*, s. 33.

¹⁹ See previous note. The total payroll threshold is \$7 million for the 2022 calendar year. Therefore, where the corporation's total payroll for the 2022 calendar year is equal to or greater than \$7 million, the corporation is not eligible for the tax credit for experienced workers in respect of employer contributions paid by it for that calendar year.

²⁰ Where the corporation is a member of an associated group, 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.

For the purposes of the tax credit, a qualified partnership, for a fiscal period, means a partnership that, in the fiscal period, carries on a business in Québec and has an establishment there, whose paid-up capital for the fiscal period is less than \$15 million²¹ and, except where the partnership would be a primary and manufacturing sectors corporation if it were a corporation, whose total number of remunerated hours of its employees for the fiscal period exceeds 5 000.

In order to allow more corporations to benefit from the tax credit, amendments will be made to the definition of “qualified corporation” and to the definition of “qualified partnership” to remove the requirement relating to paid-up capital as well as the requirement relating to the number of remunerated hours.

The tax legislation will therefore be amended so that a qualified corporation, for a taxation year, for the purposes of the tax credit for experienced workers, means a corporation, other than a corporation excluded for the year,²² that, in the year, carries on a business in Québec and has an establishment there.

It will also be amended so that a qualified partnership, for a fiscal period, for the purposes of the tax credit for experienced workers, means a partnership that, in the fiscal period, carries on a business in Québec and has an establishment there.

❑ **Application date**

The amendments will apply to a taxation year of a corporation or a fiscal period of a partnership that ends after December 30, 2022, in respect of an amount paid by the corporation or partnership, as the case may be, as employer contributions in respect of a calendar year after 2021.

3. EASING OF THE REFUNDABLE TAX CREDIT FOR SMALL AND MEDIUM-SIZED BUSINESSES IN RESPECT OF PERSONS WITH A SEVERELY LIMITED CAPACITY FOR EMPLOYMENT

In the March 10, 2020 budget speech,²³ the refundable tax credit for small and medium-sized businesses (SMBs) in respect of persons with a severely limited capacity for employment was announced.

The purpose of this tax credit is to support SMBs and promote the hiring and retention of workers with a severely limited capacity for employment, that is, briefly, individuals having 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,²⁴ or those in respect of whom the Minister of Labour, Employment and Social Solidarity has issued a certificate showing that the person received a social solidarity allowance under the Social Solidarity Program established in the *Individual and Family Assistance Act*²⁵ (hereinafter referred to as “eligible employees”).

²¹ The rules applicable for the determination of the paid-up capital of a corporation apply as if the partnership were a corporation.

²² An excluded corporation means, among other things, a corporation that is exempt from tax or a Crown corporation.

²³ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2020-2021 – Additional Information*, March 10, 2020, pp. A.37-A.42.

²⁴ The individuals concerned are those in respect of whom the conditions set out in subsections *a* to *b.1* of the first paragraph of section 752.0.14 of the *Taxation Act* are met.

²⁵ CQLR, chapter A-13.1.1.

The tax credit of a qualified corporation corresponds, for a taxation year, to the amount that the corporation paid as employer contributions,²⁶ in respect of the calendar year ended in the taxation year, in relation to the salary, wages or other remuneration that the corporation paid, allocated, granted, awarded or attributed in the calendar year to its eligible employees.

A qualified corporation that is a member of a qualified partnership, at the end of a fiscal period of the partnership that ends in a taxation year of the corporation, may also receive, for that taxation year, the tax credit for an amount equal to its share of employer contributions paid by the qualified partnership, in respect of the calendar year ended in the fiscal period, in relation to the salary, wages or other remuneration paid, allocated, granted, awarded or attributed by the partnership in the calendar year to its eligible employees.

A qualified corporation, for a taxation year, for the purposes of the tax credit, means a corporation that, among other things, carries on in the year a business in Québec and has an establishment there, whose paid-up capital, for the year, is less than \$15 million²⁷ and, unless the corporation is a primary and manufacturing sectors corporation, whose total remunerated hours of its employees for the year exceeds 5 000.

A qualified partnership, for a fiscal period, for the purposes of the tax credit, means a partnership that, in the fiscal period, carries on a business in Québec and has an establishment there, whose paid-up capital for the fiscal period is less than \$15 million²⁸ and, except where the partnership would be a primary and manufacturing sectors corporation if it were a corporation, whose total remunerated hours of its employees for the fiscal period exceeds 5 000.

In order to allow a corporation to benefit from the tax credit regardless of its size or that of the partnership of which it is a member, amendments will be made to the definition of “qualified corporation” and to the definition of “qualified partnership” to remove the requirement relating to paid-up capital as well as the requirement relating to the number of remunerated hours.

In view of the changes that will be made, the tax credit will be renamed, as of calendar year 2022, to be known as the “refundable tax credit for the retention of persons with a severely limited capacity for employment”.

In addition, the tax legislation will be amended so that a qualified corporation, for a taxation year, for the purposes of the refundable tax credit for the retention of persons with a severely limited capacity for employment, means a corporation, other than an excluded corporation for the year,²⁹ that, in the year, carries on a business in Québec and has an establishment there.

²⁶ The employer contributions covered by the tax credit are those paid under section 59 of the *Act respecting parental insurance* (CQLR, chapter A-29.011), section 39.0.2 of the *Act respecting labour standards* (CQLR, chapter N-1.1), section 34 of the *Act respecting the Régie de l'assurance maladie du Québec* (CQLR, chapter R-5) and section 52 of the *Act respecting the Québec Pension Plan* (CQLR, chapter R-9), as well as that paid under the *Act respecting industrial accidents and occupational diseases* (CQLR, chapter A 3.001).

²⁷ Where the corporation is a member of an associated group, 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.

²⁸ The rules applicable for the determination of the paid-up capital of a corporation apply as if the partnership were a corporation.

²⁹ An excluded corporation means, among other things, a corporation that is exempt from tax or a Crown corporation.

It will also be amended so that a qualified partnership, for a fiscal period, for the purposes of the refundable tax credit for the retention of persons with a severely limited capacity for employment, means a partnership that, in the fiscal period, carries on a business in Québec and has an establishment there.

■ Application date

The amendments relating to the eligibility criteria will apply to a taxation year of a corporation or a fiscal period of a partnership that ends after December 30, 2022, in respect of an amount paid by the corporation or partnership, as the case may be, as employer contributions in respect of a calendar year after 2021.

4. CONSEQUENTIAL AMENDMENT TO THE ADDITIONAL DEDUCTION FOR TRANSPORTATION COSTS INCURRED BY REMOTE SMALL AND MEDIUM-SIZED BUSINESSES

In the June 4, 2014 budget speech,³⁰ an additional deduction for transportation costs incurred by remote small and medium-sized businesses (SMBs) was introduced. This deduction is available to a Canadian-controlled private corporation whose proportion of manufacturing or processing activities is at least 25% (hereinafter referred to as “manufacturing corporation”). The main purpose of this measure is to improve the competitiveness of manufacturing corporations facing higher transportation costs due to their distance from major urban centres.

In order to provide additional support to all SMBs located in a special remote area,³¹ the additional deduction for transportation costs was modified in the March 28, 2017 budget speech.³² Accordingly, a Canadian-controlled private corporation for which more than 50% of the cost of labour or the cost of capital is attributable to a business it operates in a special remote area (hereinafter referred to as a “qualified corporation”) may claim the additional deduction.

Briefly, the amount of this additional deduction a corporation may claim in calculating its income depends on a number of parameters, i.e., its gross revenue, the region where it carries out its manufacturing activities, the level of its manufacturing activities, the regional limit applicable to it and its size.

The amount of the additional deduction of a manufacturing corporation, for a taxation year, is therefore obtained by multiplying the corporation’s gross revenue for the year by the additional deduction rate applicable to it for the year.

³⁰ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2014-2015 – Additional Information on the Fiscal Measures of the Budget*, June 4, 2014, pp. 3-7. This measure has subsequently been modified (see: *Id.*, *Information Bulletin 2014-11*, December 2, 2014, pp. 6-10; *Id.*, *The Québec Economic Plan – Additional Information 2017-2018*, March 28, 2017, pp. 27-28).

³¹ The special remote area consists of the municipality of L’Île-d’Anticosti (Côte-Nord), the Communauté maritime des Îles-de-la-Madeleine, Golfe-du-Saint-Laurent regional county municipality (RCM) (Côte-Nord) and the territory of the Kativik Regional Government (Nord-du-Québec).

³² MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2017-2018*, March 28, 2017, pp. 28-30.

The rate of a corporation's additional deduction for a taxation year is first determined based on the region of Québec where the corporation carries out its manufacturing activities for the year. Basic rates of 3%, 5% and 10% apply to three separate areas grouping territories that are located far from major urban centres. These areas are, respectively, the "intermediate area,"³³ the "remote area"³⁴ and the "special remote area."³⁵ A base rate of 1% applies to major urban centres, which constitute the "central area."³⁶ This rate is then reduced based on the proportion of the corporation's manufacturing or processing activities for the year.³⁷

The amount of a corporation's additional deduction cannot exceed a regional limit calculated on an annual basis, which corresponds to \$350 000 where the basic rate applicable to it is 5%, \$150 000 where the basic rate is 3% and \$50 000 where the basic rate is 1%.

The amount of the additional deduction of a qualified corporation for a taxation year is calculated by applying a rate of 10% to the corporation's gross revenue for the taxation year.

Moreover, the amount that a corporation may deduct in calculating its income for the additional deduction may be reduced based on its paid-up capital.³⁸ Therefore, in order for a manufacturing corporation or a qualified corporation to fully benefit from the additional deduction for transportation costs for a taxation year, its paid-up capital must not exceed \$10 million. The amount of the additional deduction of such corporation, for a taxation year, is reduced linearly when its paid-up capital, for the year, is between \$10 million and \$15 million, and falls to zero when it is \$15 million or more.

³³ The intermediate area consists of the territories included in the following administrative regions, RCMs and municipalities: Capitale-Nationale, except for the municipalities in the Québec census metropolitan area (CMA) and the Charlevoix-Est RCM; Chaudière-Appalaches, except for the municipalities in the Québec CMA; Lanaudière, except for the municipalities in the Montréal CMA; Laurentides, except for the municipalities in the Montréal CMA and the Antoine-Labelle RCM; Montérégie, except for the municipalities in the Montréal CMA; Centre-du-Québec; the western part of Estrie, including the Ville de Sherbrooke and the Memphrémagog, Val-Saint-François, des Sources and Coaticook RCMs; the southern part of Mauricie, including the cities of Trois-Rivières and Shawinigan, as well as the Chenaux and Maskinongé RCMs; and Papineau RCM (Outaouais).

³⁴ The remote area consists of the territories included in the following administrative regions, RCMs, urban agglomeration and municipalities: Bas-Saint-Laurent; Saguenay-Lac-Saint-Jean; Abitibi-Témiscamingue; Côte-Nord, except for the municipality of L'Île-d'Anticosti and the Golfe-du-Saint-Laurent RCM; Nord-du-Québec, except for the part included in the territory of the Kativik Regional Government; part of Gaspésie, including the Avignon, Bonaventure, Côte-de-Gaspé, Haute-Gaspésie and Rocher-Percé RCMs; the eastern part of Estrie, including the Granit and Haut-Saint-François RCMs; Antoine-Labelle RCM (Laurentides); urban agglomeration of La Tuque and Mékinac RCM (Mauricie); Pontiac and La Vallée-de-la-Gatineau RCMs (Outaouais); Charlevoix-Est RCM (Capitale-Nationale).

³⁵ See note 31.

³⁶ The central area consists of the territories of Québec that are not included in the other three areas. Essentially, this means Gatineau and the Montréal and Québec CMAs.

³⁷ The rate of the additional deduction of a manufacturing corporation is reduced linearly when its proportion of manufacturing or processing activities is between 50% and 25%. When this proportion reaches 25% for a taxation year, the corporation cannot benefit from the additional deduction for that year.

³⁸ Briefly, the paid-up capital of a corporation used to determine the amount of its additional deduction for a taxation year corresponds to its paid-up capital determined for its previous taxation year. In addition, where the corporation is a member of an associated group, 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.

In view of the harmonization of the Québec tax legislation with the federal tax legislation regarding the amendment to the small business deduction with respect to the widening of the range within which the business limit is reduced,³⁹ a consequential amendment will be made to the additional deduction for transportation costs incurred by remote SMBs.

The maximum amount of \$15 million of paid-up capital at which the additional deduction for transportation expenses of a manufacturing corporation or a qualified corporation is reduced to zero will be increased to \$50 million.

Accordingly, the amount that may be deducted in calculating the income of a manufacturing corporation or a qualified corporation in respect of the additional deduction for transportation costs incurred by remote SMBs for a taxation year will be reduced linearly when the corporation's paid-up capital for the year⁴⁰ is between \$10 million and \$50 million and will fall to zero when the corporation's paid-up capital is \$50 million or more.

■ Application date

This amendment will apply to a taxation year of a corporation that begins after April 6, 2022.

5. CONSEQUENTIAL ADJUSTMENT TO THE INCOME-AVERAGING MECHANISM FOR FOREST PRODUCERS

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 forest⁴¹ was introduced in the March 2016 Québec Economic Plan.⁴²

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 ten years.⁴³

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, 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 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.

³⁹ See subsection 1.2.

⁴⁰ See note 38.

⁴¹ 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* (CQLR, chapter A-18.1) in respect of that private forest.

⁴² MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2016-2017*, March 17, 2016, pp. A.44-A.49.

⁴³ This mechanism was extended for a five-year period in the March 10, 2020 budget speech: MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2020-2021 – Additional Information*, March 10, 2020, pp. A.53-A.54.

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 10 years.

In order to benefit from this mechanism, a forest producer that is a corporation must be recognized as an qualified corporation, that is, a Canadian-controlled private corporation whose paid-up capital⁴⁴ does not exceed \$15 million.

In light of the harmonization of Québec's tax legislation with the federal tax legislation with respect to the amendment to the small business deduction regarding the expansion of the range within which the business limit is reduced,⁴⁵ a consequential amendment will be made to the income-averaging mechanism for forest producers who are recognized as qualified corporations.

As a result, the maximum amount of \$15 million of paid-up capital that can be used by a qualified corporation to claim this mechanism will be increased to \$50 million.

■ Application date

This amendment will apply to a taxation year of a corporation that begins after April 6, 2022.

6. AMENDMENTS TO THE REFUNDABLE TAX CREDIT RELATING TO MINING, PETROLEUM, GAS OR OTHER RESOURCES

The refundable tax credit relating to mining, petroleum, gas or other resources (hereinafter referred to as the "refundable tax credit for resources") was introduced in the March 29, 2001 budget speech.⁴⁶

As a general rule, a qualified corporation⁴⁷ that incurs eligible expenses, for a taxation year, may claim this tax credit, for that year, at a rate of up to 38.75%.

The rate of the tax credit that a qualified corporation may claim varies according to several parameters, including the type of corporation that incurs the eligible expenses, the place where the expenses are incurred and the type of resources to which these expenses are related.

Briefly, a corporation's eligible expenses fall into four categories: exploration expenses in Québec related to mining resources, those related to oil and gas, renewable and conservation expenses incurred in Québec, and expenses incurred in Québec related to other natural resources.⁴⁸ These expenses must have been incurred by the corporation after March 29, 2001 and must not have been renounced for the purposes of the *Taxation Act* under the flow-through share regime.

⁴⁴ *Taxation Act*, s. 726.39.

⁴⁵ See subsection 1.2.

⁴⁶ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2001-2002 – Additional Information on the Budgetary Measures*, March 29, 2001, section 1, pp. 50-55.

⁴⁷ A qualified corporation that is a member of a qualified partnership may, on certain conditions, receive the tax credit for resources in respect of its share of the specified expenses incurred by the partnership.

⁴⁸ For the purposes of the tax credit for resources, a natural resource means granite, sandstone, limestone, marble or slate, to the extent that these resources are used for the production of dimension stone, cemetery monuments, building stones, paving stones, curbing and roof tiles.

On February 2, 2022, the Québec government introduced Bill 21, An Act mainly to end petroleum exploration and production and the public financing of those activities. The Bill was assented to on April 13, 2022.⁴⁹ In summary, the effect of that Act is to prohibit exploration for petroleum and production of petroleum and brine. It also prohibits exploration for underground reservoirs where it is carried out for the purpose of exploring for, storing or producing petroleum or brine, and it revokes petroleum exploration and production licences and authorizations to produce brine.

Shortly before the Bill was assented to, the federal government proposed in its April 7, 2022 budget speech to eliminate the flow-through share regime for oil, gas and coal activities by no longer allowing oil, gas and coal exploration or development expenses to be renounced to a flow-through share investor.⁵⁰ This amendment is to apply to expenses renounced under flow-through share agreements entered into after March 31, 2023.

Consequently, in order to ensure that the Québec tax system reflects the Québec government's intention to put an end to petroleum exploration and development and to complete the harmonization of the Québec tax system with the federal tax system with respect to the amendments made to the flow-through share regime,⁵¹ the Québec tax legislation will be amended so that expenses related to oil, gas or coal will no longer be eligible for the refundable tax credit for resources.

This change will apply to expenses incurred after March 31, 2023.

Moreover, because of the change made to the expenses covered by the refundable tax credit for resources, the latter will be renamed as of the coming into force of this change as the “refundable tax credit relating to mining or other resources”.

7. EXTENSION OF THE INCOME REPLACEMENT INDEMNITY PAID BY THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

Since 1990, the *Automobile Insurance Act*⁶² has stipulated that an income replacement indemnity (hereinafter referred to as the “IRI”) of the Société de l'assurance automobile du Québec (SAAQ) ceases to be paid to a road accident victim at 68 years of age. As a general rule, the amount of the IRI to which a victim is entitled is reduced by 25% starting from the date of his 65th birthday and subsequently declines gradually by 25% per year, until his 68th birthday, the date on which the victim ceases to be entitled to the IRI from the SAAQ.

Depending on their age at the time of the accident, certain victims reach retirement without having contributed sufficiently to the Québec Pension Plan or another retirement plan, which considerably limits their financial resources at this stage of their lives.

In the context of Bill 22 tabled in the National Assembly of Québec on February 9, 2022,⁵³ the government proposed that the SAAQ continue to pay the IRI to road accident victims who have reached the age of 68, according to a new calculation stipulated by a regulation that the bill enacts.

⁴⁹ S.Q. 2022, c. 10.

⁵⁰ DEPARTMENT OF FINANCE CANADA, *Budget 2022 – Tax Measures: Supplementary information*, [Online], April 7, 2022, pp. 27-28 [<https://budget.gc.ca/2022/pdf/tm-mf-2022-en.pdf>].

⁵¹ See subsection 1.2.

⁵² CQLR, c. A-25.

⁵³ Bill 22, *An Act to amend the Automobile Insurance Act, the Highway Safety Code and other provisions*, was assented to on May 26, 2022 and is now designated S.Q. 2022, c. 13.

Indeed, Bill 22 calls for the extension of the IRI paid to them at the age of 67, with certain adjustments for a period beginning on the date of the victims' 68th birthday and ending with their death (indemnity hereinafter referred to as "the retirement IRI").

Accordingly, for road accident victims alive on the date of coming into force of the applicable provisions of Bill 22 on July 1, 2022, and who have reached 68 years of age on that date or subsequently, the retirement IRI will correspond to the product of the three following elements:

- 40%;
- the amount of the IRI received at the age of 67 (without reduction);
- the ratio between the number of days since 1990 falling between the date of the victim's 18th birthday and the day before his 65th birthday during which he received the IRI to which he is still entitled at the age of 67, and 14 610.⁵⁴

However, in cases where the retirement IRI calculated above will exceed that reduced by 75% paid in the year of the victim's 67th birthday, the retirement IRI will be paid to him starting from the date of his 67th birthday instead of the date of his 68th birthday.

Moreover, the victims of road accidents that occurred after December 31, 1989, who are alive and reached the age of 67 on July 1, 2022, may, if they were receiving the IRI to which they were still entitled at the age of 67, benefit from a retroactive retirement IRI payment to be calculated by the SAAQ.

□ Tax effects stemming from the introduction of Bill 22

Since the retirement IRI stemming from the introduction of Bill 22 will extend the IRI paid to road accident victims pursuant to the SAAQ's public compensation plan, it will thus qualify for the application of the *Taxation Act* as an IRI.⁵⁵

Furthermore, since 2004, the *Taxation Act* has provided for two types of adjustments to be made in the income tax return of a beneficiary who receives an IRI pursuant to a public compensation plan, such as the SAAQ's plan:

- an adjustment of the basic personal income tax credit in the year of receipt of an IRI;⁵⁶
- if applicable, when a retroactive IRI payment is disbursed, a tax adjustment in respect of previous years.⁵⁷

⁵⁴ The figure 14 610 represents the number of days included in this 40-year period, i.e., 365.25 days × 40.

⁵⁵ In the year in which it is received, the IRI must be included in the computation of the beneficiary's "net income" (*Taxation Act*, s. 311, par. k.0.1) and it is subject to an equivalent deduction in the computation of his "taxable income" (*Taxation Act*, s. 725, par. a.1), such that it is, in itself, non-taxable. However, because it is included in the computation of net income, socio-fiscal tax credits based on net income such as the refundable solidarity tax credit or the tax credit for senior assistance may be affected.

⁵⁶ *Taxation Act*, s. 752.0.0.5.

⁵⁷ *Ibid.*, s. 766.3.2.

■ Adjustment of the basic personal income tax credit

Currently, the beneficiaries of an IRI from the SAAQ must reduce their basic personal income tax credit in their income tax returns.⁵⁸ This is to avoid using twice the basic personal income tax credit in respect of an IRI: first, at the time that it is established, then when it is included in the income tax return.

The downward adjustment of the basic personal income tax credit does not engender any tax impact for the beneficiary of an IRI when he does not have income from sources other than the IRI. Such is not the case when the beneficiary has income from sources other than the IRI since the downward adjustment of the basic personal income tax credit will usually generate a tax impact.

Such an adjustment ensures the taxation system's fairness. Indeed, without the adjustment of the basic personal income tax credit, the beneficiary of an IRI who has another source of income such as rental income would have a more favourable tax situation than another taxpayer such as a worker who has the same second source of income as this beneficiary.

In the case of the retirement IRI, changes must be made to the adjustment of the basic personal income tax credit to consider the new parameters that Bill 22 introduces.

In this context, the tax legislation will be amended to introduce the new parameters for the calculation of the adjustment to the basic personal income tax credit of victims receiving an IRI from the SAAQ.

More specifically, the adjustment concerning a covered benefit determined by the SAAQ attributable to a given taxation year subsequent to the 2021 taxation year will be equivalent to all the amounts of which each one is, for each day in the year in respect of which the covered benefit is determined (hereinafter referred to as the "particular day"), equivalent to the lesser of the amounts established for the particular day according to the following formulas:

$$a) \{J \times [(0.90 \times A / B) - (C \times D / B)] \times (1 - E)\} - F / B;$$

$$b) \{J \times [(0.90 \times G / B) - (C \times H)] \times (1 - E)\} - F / B.$$

⁵⁸ This adjustment for IRI appears on line 358 of the TP-1 income tax return.

For the application of these formulas:

- J represents, depending on the circumstances:
 - when, for the particular day, the covered benefit has been determined according to the calculation method prescribed by the *Règlement sur le calcul de l'indemnité de remplacement du revenu versée en application du deuxième ou du troisième alinéa de l'article 40 de la Loi sur l'assurance automobile*:
 - the percentage resulting from the formula $(0.40 \times K / 14\,610)$ where K represents the number of days that do not exceed 14 610 between the date of the victim's 18th birthday and the day before the date of his 65th birthday, during which:
 - a) the victim received a covered benefit to which he is still entitled on the date of his 67th birthday or, if he is 64 years old at the time of the accident, the indemnity to which he is still entitled on the date that follows by three years that of the accident, but except for the days on which the victim received a covered benefit to which he was not entitled,
 - b) the payment of the covered benefit has been suspended by virtue of section 83.29 of the *Automobile Insurance Act*,
 - in other cases, 100 %;
- A is the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, or, if the covered benefit attributable to the year is adjusted in accordance with section 119 of the *Act respecting the Québec Pension Plan*, the amount that would be the annual gross revenue used as a basis for determining, for the particular day, the covered benefit attributable to the year, if it were adjusted according to the same rules as those applicable to the covered benefit;
- B is the number of days in the year;
- C is, depending on the circumstances:
 - if only part of the net income from an employment held is used to reduce, for the particular day, the covered benefit attributable to the year, the percentage attributed under the public compensation plan in respect of that net income,
 - in any other case, 100%;
- D is the annual gross revenue from a suitable employment or employment held, for the particular day;
- E is the percentage that applies for the purpose of reducing, for the particular day, the covered benefit attributable to the year;
- F is the amount that is payable for the year as an old age pension or as a disability benefit payable under a plan established by a jurisdiction, other than Québec, that is equivalent to the plan established under the *Act respecting the Québec Pension Plan*, and that is, in determining, for the particular day, the covered benefit attributable to the year, used by the SAAQ to reduce the amount of that covered benefit;

- G is the amount in dollars referred to in section 752.0.0.1 of the *Taxation Act* that is applicable for the year, with reference to section 750.2 of the Act, to the extent that the amount is used by the SAAQ to establish the weighted net income for the purpose of computing, for the particular day, the covered benefit attributable to the year;
- H is the lesser of the following amounts:
 - the amount obtained by dividing the gross annual income from a suitable employment or employment held for the particular day by the number of days in the year;
 - the amount obtained by dividing by the number of days in the year the amount in dollars referred to in section 752.0.0.1 of the *Taxation Act*, which, considering section 750.2 of the Act, is applicable for the year insofar as the SAAQ uses this amount to establish the net income retained from a suitable employment or employment held for the particular day.

Since the SAAQ calculates the adjustment of the basic personal income tax credit of each beneficiary and records it in box M of the RL-5 slip that it issues to him for the purposes of the preparation of his income tax return, the same will be true of the adjustment of the basic personal income tax credit pertaining to a retirement IRI.

Depending on the personal tax situation of the beneficiary of the retirement IRI, the adjustment to the basic personal income tax credit could have a fiscal impact in respect of taxable income from sources other than the retirement IRI.

■ Tax adjustment in respect of previous years

When a beneficiary receives a retroactive IRI payment, the *Taxation Act* provides for the calculation of a tax adjustment in respect of previous years. The calculation, which is performed in the year of receipt of a retroactive IRI payment, seeks to recover the tax benefits that would not have been granted in the previous years if the IRI had been determined in the year to which it relates and had been included in the beneficiary's income for that year.⁵⁹

The calculation of the tax adjustment in respect of previous years stemming from the receipt of a retroactive IRI payment seeks to compare the tax that the beneficiary would have had to pay for the previous year had the IRI attributable to the previous year been determined in that previous year and the tax that the beneficiary paid for that previous year. This difference is added in the calculation of the tax otherwise payable by the beneficiary in the year of receipt of the retroactive IRI payment.⁶⁰

It should be noted that the calculation of the tax adjustment in respect of previous years is made without Revenu Québec's issuing any new notice of assessment for the previous years. Accordingly, from the standpoint of previous taxation years, the retroactive payment of an IRI does not affect the calculation of the socio-fiscal tax credits corresponding to such years but only affects the calculation of those based on the net income for the year of receipt of such a retroactive IRI payment.

⁵⁹ The year of receipt of a retroactive IRI payment corresponds to the year in which such a payment must be included in the computation of the beneficiary's net income and in which the deduction of an equivalent amount can be demanded in the computation of his taxable income.

⁶⁰ This adjustment related to a retroactive IRI payment appears on line 443 of the TP-1 income tax return filed for the year of receipt of the retroactive IRI payment.

The retroactive retirement IRI payment resulting from the coming into force of Bill 22 will differ from a retroactive IRI payment stemming from a challenge. Indeed, for individuals 67 years of age or over on the date of coming into force of Bill 22, set at July 1, 2022, no calculation of tax that such individuals might have had to pay for a period prior to July 1, 2022 in respect to a retirement IRI attributable to this period will have to be made, given that no statute in force at that time made it possible to determine the retirement IRI attributable to this previous period.

In other words, the beneficiaries of the SAAQ eligible for a retroactive retirement IRI payment will not have to pay tax in respect of the years preceding the coming into force of Bill 22. However, in future years, if a beneficiary 67 years of age or over challenges the calculation of the retirement IRI paid to him and he benefits from a retroactive retirement IRI payment several years thereafter, the tax adjustment in respect of previous years may also apply, but only in respect of any period subsequent to June 30, 2022.

The tax legislation will, therefore, be amended such that:

- the tax adjustment mechanism in respect of previous years will not apply with respect to the retroactive IRI retirement payments that should be paid in the six months following July 1, 2022 (or when the SAAQ has available the information to do so) attributable to a period prior to July 1, 2022 and stemming from the coming into force of Bill 22;
- this mechanism applies in future years in cases where the establishment of the payments of a retirement IRI would be contested by a beneficiary and a retroactive payment of a retirement IRI would stem therefrom, as the case may be, but only with respect to the portion of the payments of a retirement IRI paid relating to a period subsequent to June 30, 2022.

What is more, as regards the portion of the retroactive payment of a retirement IRI attributable to the period from January 1, 2022 to June 30, 2022, which would be paid in 2022, the legislation will be amended to make sure that no adjustment applies thereto both concerning the adjustment pertaining to the basic personal income tax credit and the adjustment relating to income tax in respect of previous years.