

Changes to the tax credit for a labour-sponsored fund and to the constituting acts of tax-advantaged funds

For many years, tax-advantaged funds, that is, the Fonds de solidarité des travailleurs du Québec (hereinafter referred to as the “Fonds de solidarité F.T.Q.”), the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi (hereinafter referred to as “Fondaction”) as well as Capital régional et coopératif Desjardins (hereinafter referred to as the “CRCD”), have each contributed in their own way in Québec’s economic growth.

As part of Budget Speech 2023-2024¹ and *Information Bulletin 2023-4*,² a number of amendments were announced to the constituting acts³ of the tax-advantaged funds as well as to certain provisions of the Québec tax legislation. These amendments were aimed at updating the intervention framework for tax-advantaged funds, with a view to optimizing the economic spinoffs from these funds’ financing operations, limiting the tax expenditure associated with payment of the related non-refundable tax credit, and enabling a greater number of individuals to become shareholders in labour-sponsored funds.⁴

Still with the aim of modernizing this intervention framework, two amendments will be made to the applicable legislation. These amendments consist of:

- postponing the application of the measure limiting access to the non-refundable tax credit for a labour-sponsored fund announced in the 2023-2024 budget speech;
- providing, under certain conditions, for new terms for determining the redemption price of shares of tax-advantaged funds in the course of a semester.

¹ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2023-2024 – Additional Information*, March 21, 2023, pp. A.56-A.65.

² Id., *Information Bulletin 2023-4*, June 27, 2023, pp. 19-34.

³ *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)* (CQLR, c. F-3.2.1) [*Act to establish the FSTQ*]; *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi* (CQLR, c. F-3.1.2) [*Act to establish Fondaction*]; *Act constituting Capital régional et coopératif Desjardins* (CQLR, c. C-6.1) [*Act constituting CRCD*].

⁴ The term “labour-sponsored funds” refers to the Fonds de solidarité F.T.Q. and Fondaction.

❑ Postponing the application of the rule limiting eligibility for the non-refundable tax credit for a labour-sponsored fund

In general, an individual who acquires as first purchaser shares issued by a labour-sponsored fund of a class of eligible shares⁵ may claim a non-refundable tax credit for a taxation year equal to 15% of the amount paid to acquire such shares in the year or within 60 days thereafter.⁶

The total amount of shares acquired from a labour-sponsored fund that an individual may take into account for the purpose of calculating the non-refundable tax credit for a year cannot exceed \$5 000. Therefore, the tax credit cannot exceed an amount of \$750.

As part of the 2023-2024 budget speech,⁷ the government announced the introduction of a rule to limit eligibility for the non-refundable tax credit for a labour-sponsored fund. Accordingly, it is expected that the tax legislation will be amended so that high-income individuals will no longer be able to benefit from the non-refundable tax credit for a labour-sponsored fund, as long as the individual's taxable income is subject to the highest tax rate⁸ of the personal income tax table for the base taxation year.

In this regard, the 2023-2024 budget speech specified that the base taxation year would be that which ended on December 31 of the second calendar year preceding the taxation year for which an individual would claim the non-refundable tax credit for a labour-sponsored fund.

This measure was to apply to a claim for the non-refundable tax credit for a taxation year after the 2023 taxation year in respect of shares acquired after December 31, 2023. Implementation of this measure will be postponed until January 1, 2027 under this information bulletin.

Accordingly, the tax legislation will provide that the rule limiting eligibility for the non-refundable tax credit for a labour-sponsored fund will now apply to a claim for the tax credit for a taxation year after the 2026 taxation year in respect of shares acquired after December 31, 2026.

For greater clarity, the 2027 taxation year will be the first year of application of the measure. The base year for this year of application will be the 2025 taxation year.

⁵ These are Class A shares of the Fonds de solidarité F.T.Q. and Class A or B shares of Fondation.

⁶ . The amount paid includes only the shares' issue price.

⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2023-2024 – Additional Information*, March 21, 2023, pp. A.64-A.65.

⁸ *Taxation Act*, s. 750, para. d.

❑ Amending certain terms for determining the redemption price of shares of tax-advantaged funds

The constituting acts⁹ of the tax-advantaged funds stipulate that the price of redemption of their shares and fractional shares shall be fixed twice a year at dates six months apart, by the board of directors, on the basis of the value of the fund¹⁰ as established by experts under the responsibility of a firm of chartered accountants according to generally accepted accounting principles.

These laws stipulate that the board of directors may also fix the price of redemption at any other time in the year, on the basis of an internal valuation that, in each case, is presented in an accounting expert's report confirming continued adherence to the principles and methods used to value the fund.

However, it appears that such a report cannot be produced when an internal valuation is based on a summary update of the value of the fund, thereby limiting the possibility of further fixing the price of redemption at any other time during the year.

As a result, the constituting acts of the tax-advantaged funds will be amended to provide that the board of directors may also fix the price of redemption at any other time in the year, either on the basis of an internal valuation that, in each case, is presented in an accounting expert's report confirming continued adherence to the principles and methods used to value the fund, or on the basis of a summary internal update of the value of the fund, established in accordance with an internal policy approved by the board of directors and subject, in each case, to a report by independent auditors confirming compliance with said internal policy.

The constituting acts of the three tax-advantaged funds will be amended to give effect to this change as of the day following the date of this information bulletin.

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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⁹ Act to establish the FSTQ, s. 11; Act to establish Fondation, s. 14; Act constituting CRDC, s. 15.

¹⁰ This value is adjusted, where appropriate, to reflect the fair value of investments in enterprises the tax-advantaged fund controls, in joint ventures and in enterprises on which it has significant influence or in which it holds variable interests.