

## Harmonization with various federal tax measures and other tax-related adjustments

This information bulletin outlines the Ministère des Finances' position on various tax measures contained in Bill C-69, assented to on June 20, 2024, the short title of which is "*Budget Implementation Act, 2024, No. 1*".

It also sets out the Ministère des Finances' position on the federal proposals of August 12, 2024 regarding the goods and services tax and the harmonized sales tax system.

Lastly, the information bulletin introduces amendments to Québec tax legislation and regulations to exclude amounts payable under the Canadian Dental Care Plan from the application of the Québec tax system.

To obtain information on the matters dealt with in this information bulletin, please contact the Secteur du droit fiscal, de l'optimisation des revenus et des politiques locales et autochtones, at [secteurdroitfiscaletdelafiscalite@finances.gouv.qc.ca](mailto:secteurdroitfiscaletdelafiscalite@finances.gouv.qc.ca).

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1. Harmonization with certain measures contained in *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024* (Bill C-69) ..... 3
2. Harmonization with certain measures announced in the August 12, 2024 news release from the Department of Finance Canada regarding sales taxes ..... 8
3. Amendments to exclude the Canadian Dental Care Plan from the application of the Québec tax system ..... 10

## 1. Harmonization with certain measures contained in *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024 (Bill C-69)*

On June 20, 2024, Bill C-69, entitled *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024* (the short title of which is “*Budget Implementation Act, 2024, No. 1*”), was assented to.<sup>1</sup>

This Act is intended, among other things, to pursue certain tax measures introduced in the federal budget of April 16, 2024. It also implements other measures relating to the *Income Tax Act* and the *Income Tax Regulations*, some of which were covered by legislative and regulatory proposals made public on August 4, 2023 and December 20, 2023. It also introduces technical changes to increase the tax system’s certainty and integrity.

The Ministère des Finances du Québec has already announced its position with regard to most of the tax measures included in the *Budget Implementation Act, 2024, No. 1*. However, certain measures implemented by Part 1 of this Act require clarification of its position towards them.

Accordingly, Québec tax legislation and regulations will be amended<sup>2</sup> to incorporate, with adaptations based on their general principles, the measures relating to:

- an agreement to issue securities to employees (section 3);<sup>3</sup>
- the time not counted due to COVID-19 (subsection 6(1) and section 8);
- an insolvent corporation (sections 7 and 9);
- the adjustment to the adjusted cost base (subsections 10(3) and (4));
- the definitions, in the English version of the *Income Tax Act*, of “exemption threshold” and “fresh-start date” (section 11);
- the removal of the reference to the *Unemployment Insurance Act* to retain only the reference to certain parts of the *Employment Insurance Act* as benefits paid to be included in income for the year (section 12);
- adjustments to other deductions in computing income (subsections 13(1) to (3) and (5));
- exploration and development expenses of principal-business corporations (section 14);
- the determination of certain components of foreign accrual property income (section 21);
- the computation of an amount included in the income of a trust arising from an interest rate hedging agreement (section 23);

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<sup>1</sup> S.C. 2024, c. 17.

<sup>2</sup> However, certain measures retained may not require any amendment to Québec tax legislation or regulations.

<sup>3</sup> The references in parentheses correspond to section numbers in the *Budget Implementation Act, 2024, No. 1*.

- the addition of the term “embryos” to the expenses paid that may be included in the tax credit for medical expenses (section 28);
- the alternative minimum tax (AMT) carry-over (section 29);<sup>4</sup>
- assistance received (subsection 35(6));<sup>5</sup>
- changes to the computation of the AMT with respect to adjusted taxable income (subsections 41(1) to (4), (7), (8) and (10) to (12)), to the basic minimum tax credit (section 42) and to the exemption of certain trusts from tax (section 44), taking into account the clarifications outlined below;
- the exception for shares of Capital régional et coopératif Desjardins (section 47);
- various changes to registered plans (section 48);
- the payment of additional premiums to an annuity contract acquired under a registered pension plan (section 52);
- amounts transferred from an individual’s account under a pooled registered pension plan to a qualifying annuity under which the trust is the annuitant (section 53);
- the exemption for an eligible trust (section 55);
- the addition, in amounts subject to withholding tax, of a reference to an income replacement benefit under the *Veterans Well-being Act* (subsection 57(1));
- interest on refunds and repayments (subsection 60(1));
- the amendment of the definition of “automobile” to include the rules relating to the shareholder benefit (section 75);
- the addition of income replacement benefits to the definition of “remuneration” (section 77);
- Class 43.1 (section 79);

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<sup>4</sup> Tax credits relating to shares issued by Capital régional et coopératif Desjardins, which exist only in the Québec tax system, will also be eligible for the AMT carry-forward for the purposes of that system.

<sup>5</sup> Non-harmonization with the Canada Carbon Rebate for Small Businesses has already been announced. See MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2024-6*, May 31, 2024, p. 5. However, for the purposes of the Québec tax system, an amount deemed by section 127.421 of the Income Tax Act to have been paid on account of tax payable for a taxation year will be assistance received from a government in the taxation year in which the assistance is received.

- the inclusion in income of certain amounts (subsections 80(2) and (3)<sup>6</sup>);
- the reduction in the capital cost of a depreciable property equal to the amount of deducted investment tax credits (subsections 80(4) to (7)<sup>7</sup>);
- the amount to be subtracted from the undepreciated capital cost in relation to the amount of investment tax credits received (subsections 80(8) and (9)<sup>8</sup>);
- the definition of “adjusted taxable income” for the purposes of the excessive interest expenses limitation rules (subsections 80(12) and (13));
- the adjustment for resource expenses of limited partner (subsections 80(18) and (19)<sup>9</sup>);
- the winding-up of a Canadian corporation (subsections 80(29) and (30)<sup>10</sup>);
- limited partnership losses (subsections 80(31) and (32)<sup>11</sup>);
- the election to be made on a qualifying business transfer to an employee ownership trust (subsection 80(37)<sup>12</sup>);
- rules on limited partnership losses (subparagraphs 80(38) and (39)<sup>13</sup>);
- additions to the computation of the AMT (subparagraphs 80(84) and (85), to complement subsections 41(7) and 44(1), respectively);
- Class 57 (subsection 80(112));

The amendments to the Québec tax system will be applicable on the same dates as the federal measures with which they are harmonized.

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<sup>6</sup> Subsections 80(2) and (3) replace subsections 5(1) and (2) of the *Budget Implementation Act, 2024, No. 1* following assent to the *Fall Economic Statement Implementation Act, 2023* (Bill C-59).

<sup>7</sup> Subsections 80(4) to (7) replace subsections 6(2), (3), (5) and (6) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

<sup>8</sup> Subsections 80(8) and (9) replace subsections 6(7) and (8) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

<sup>9</sup> Subsections 80(18) and (19) replace subsections 15(1) and (2) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

<sup>10</sup> Subsections 80(29) and (30) replace subsections 19(3) and (4) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

<sup>11</sup> Subsections 80(31) and (32) replace subsections 22(1) and (2) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

<sup>12</sup> The election stipulated in new paragraph 110.61(1)(e) of the *Income Tax Act* will be a “binding election” as regards the application of the Québec tax system. For greater clarity, 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 this election.

<sup>13</sup> Subsections 80(38) and (39) replace subsections 24(1) and (2) of the *Budget Implementation Act, 2024, No. 1* following assent to Bill C-59.

## ❑ Clarifications regarding the alternative minimum tax

In the context of the publication of information bulletins 2023-4,<sup>14</sup> 2023-7<sup>15</sup> and 2024-6,<sup>16</sup> the Ministère des Finances du Québec made known its position regarding the changes to the computation of the AMT announced by the federal government in its 2023 and 2024 budgets.

More specifically:

- in *Information Bulletin 2023-4* of June 27, 2023, the Ministère des Finances du Québec confirmed that it intended to use parameters similar to those proposed by the federal government in its budget of March 28, 2023, but announced the AMT rate for Québec (element A in the formula), as well as the amount of the basic exemption applicable for the 2024 taxation year (element C in the formula);<sup>17</sup>
- in *Information Bulletin 2023-7* of December 19, 2023, given the entry into force, on January 1, 2024, of the federal changes to the AMT, the Ministère des Finances du Québec announced its position regarding these changes, since the Government of Canada had announced, in its November 21, 2023 economic statement, that it intended to proceed with the federal legislative proposals published on August 4, 2023, relating to the AMT;
- lastly, in *Information Bulletin 2024-6* of May 31, 2024, as a result of new modifications to the AMT announced in the federal budget of April 16, 2024, the Ministère des Finances du Québec announced that these modifications would be incorporated in Québec tax legislation and confirmed the announcements and positioning with regard to the AMT which were published in information bulletins 2023-4 and 2023-7, respectively.

Following the assent to Bill C-69, which includes the federal tax legislative amendments relating to the AMT announced in the 2023 and 2024 federal budgets, the position of the Ministère des Finances du Québec with regard to these amendments should be confirmed and clarified. This is why we have specified above the provisions of Bill C-69 relating to the AMT with which Québec tax legislation should be harmonized.<sup>18</sup>

<sup>14</sup> MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2023-4*, June 27, 2023, pp. 3-4.

<sup>15</sup> Id., *Information Bulletin 2023-7*, December 19, 2023, pp. 11-14.

<sup>16</sup> Id., *Information Bulletin 2024-6*, May 31, 2024, pp. 1, 4 and 5.

<sup>17</sup> In this information bulletin, the acronym “AMT” is used to simplify the text. The formula for the minimum tax applicable to an individual for a given taxation year provided for in section 127.51 of the *Income Tax Act* and section 776.46 of the *Taxation Act* is the following:  $A \times (B - C) - D$ , in which A represents the minimum tax rate, B represents the adjusted taxable income, C represents the amount of the basic exemption, and D represents the basic minimum tax credit (called the “basic minimum tax deduction” in the Québec tax system).

For the application of the Québec tax system, the tax rate for the AMT announced in *Information Bulletin 2023-4* is 19% (as opposed to 20.5% in the federal tax system) and the basic exemption applicable for the 2024 taxation year corresponds to a fixed amount of \$175 000 (instead of corresponding to the lower limit of the fourth tax bracket, as is the case in the federal tax system). The amount of \$175 000 will be subject to automatic annual indexation starting in 2025.

<sup>18</sup> The federal legislative proposals made public on August 12, 2024 relating to the AMT are not the subject of any announcement or comment in this information bulletin.

In addition, details are provided below regarding the harmonization of the changes to elements B and D of the formula used to compute the AMT. It should be recalled that, in *Information Bulletin 2023-7*, certain clarifications regarding the AMT base for the application of the Québec tax system had already been announced:

- among other things, it had been confirmed that deductions and tax credits under the federal tax system that have an equivalent in the Québec tax system, but whose tax treatment in both tax systems is either similar or different and for which a reduction must be applied in the computation of the federal AMT in a proportion of 50%, would also be subject to a reduction in a proportion of 50% in the computation of the Québec AMT;
- it was also noted that non-refundable tax credits in the Québec tax system that do not have an equivalent in the federal tax system, and which are currently included in element D of the AMT formula, i.e., the basic minimum tax deduction, would also be subject to the reduction of 50%.

However, in its 2024 budget, the federal government made changes to the tax treatment of certain deductions and certain tax credits included in elements B and D of the formula to compute the AMT.

These changes included, among other things, a change to the tax treatment of charitable donations to allow individuals to claim, in the computation of the AMT, 80% of the tax credit for charitable donations (as opposed to 50%). Similarly, the federal government announced that certain deductions could be claimed at 100% (as opposed to 50%), notably Guaranteed Income Supplement payments, social assistance payments and workers' compensation benefits.

As stated above, the Ministère des Finances du Québec already announced, in *Information Bulletin 2024-6*, that the new modifications to the computation of the AMT resulting from the 2024 federal budget, including those of a technical nature, would be incorporated in Québec tax legislation, while confirming the announcements and the position regarding previously made public in information bulletins 2023-4 and 2023-7, respectively.

Given the sequence of the various federal announcements having led to Bill C-69 being assented to, it is time to confirm and complete the principles that can be identified regarding harmonization with the changes to elements B and D of the formula to compute the federal AMT that should be included in Québec tax legislation with respect to the corresponding elements in the equivalent formula.

First, in cases where deductions and tax credits under the federal tax system have an equivalent measure under the Québec tax system, whose tax treatment is either similar or different in the Québec tax system, Québec tax legislation will be amended so that these deductions and tax credits can be applied, in the computation of the Québec AMT, in the same proportion as that used in the computation of the federal AMT.

Second, since the 2024 federal budget changed the percentage at which certain deductions may be claimed in the computation of the AMT, it is appropriate to complete the announcement made in *Information Bulletin 2023-7* regarding the non-refundable tax credits under the Québec tax system that do not have an equivalent in the federal tax system and which are currently included in element D of the AMT formula, in order to also make mention of certain deductions included in element B of the formula.

Therefore, in cases where certain deductions and certain tax credits under the Québec tax system do not have an equivalent in the federal tax system and they are included in elements B or D of the formula to compute the Québec AMT, Québec tax legislation will be amended so that they can be claimed in the same proportion, as the case may be, as that used for the federal tax measure to which they can be compared, where applicable.

However, in cases where deductions and tax credits under the Québec tax system do not have an equivalent in the federal tax system and cannot be compared with any measure under the federal tax system, Québec tax legislation should not be amended with respect to the computation of the AMT for these deductions and tax credits.

To illustrate the above-mentioned principles for the application of the computation of the AMT in cases where deductions and tax credits under the Québec tax system do not have an equivalent in the federal tax system, two examples are provided below:

- the Québec tax credits for large cultural donations or for cultural patronage donations do not have an equivalent in the federal tax legislation, but they can be claimed in a proportion of 80% in the computation of the Québec AMT, in the same way as the tax credits for charitable donations to which they are similar;<sup>19</sup>
- the deduction provided for in section 65.1 of the *Taxation Act* (expenses for meals and lodging for certain employees) does not have an equivalent in the federal tax system, but will still have to be reduced by half in the computation of the AMT, in the same way as the federal deduction provided for in paragraph 8(1)(g) of the *Income Tax Act* (transport employees' expenses), to which it is similar and which is the federal equivalent of the Québec deduction provided for in section 66 of the *Taxation Act*.<sup>20</sup>

## 2. Harmonization with certain measures announced in the August 12, 2024 news release from the Department of Finance Canada regarding sales taxes

On August 12, 2024, the Department of Finance Canada made public in a news release<sup>21</sup> legislative and regulatory proposals relating to the *Excise Tax Act*, the *Excise Act, 2001*, the *Air Travellers Security Charge Act*, the *Greenhouse Gas Pollution Pricing Act*, the *Underused Housing Tax Act* and the *Select Luxury Items Tax Act* (hereinafter referred to as the “federal proposals”).

<sup>19</sup> Subsection 42(1) of the *Budget Implementation Act, 2024, No. 1*, replaces section 127.531 of the *Income Tax Act* (basic minimum tax credit) to state, in new paragraph c, that the tax credit for donations may be claimed at 80%. See also section 776.65 (basic minimum tax deduction, subparagraph b, of the *Taxation Act*.

<sup>20</sup> Subsection 41(12) of the *Budget Implementation Act, 2024, No. 1*, replaces paragraph j of subsection 127.52(1) to state, in subparagraph (i), that the deduction referred to in paragraph 8(1)(g) may be claimed at 50% in the computation of the AMT.

<sup>21</sup> DEPARTMENT OF FINANCE CANADA, *Legislative and Regulatory Proposals relating to the Excise Tax Act, the Excise Act, 2001, the Air Travellers Security Charge Act, the Greenhouse Gas Pollution Pricing Act, the Underused Housing Tax Act and the Select Luxury Items Tax Act*, [Online], August 12, 2024, [<https://fin.canada.ca/drleg-apl/2024/lrpetetatscggppuhtslita-plrctaldsptaltpgltlsultcbl-0724-l-1-eng.html>].

Given the general principle of harmonizing the Québec sales tax (QST) system with that of the goods and services tax and the harmonized sales tax (GST/HST), amendments will be made to the Québec taxation system to incorporate, by adapting them in accordance with its general principles and its specific features, and taking into account the provincial context in which the QST operates, the following federal proposals:<sup>22</sup>

- definition of “bank” (FLRP 1);
- investment plan (FLRP 2);
- capital personal property of financial institutions (FLRP 3);
- Canadian activity (FLRP 4);
- *Financial Services and Financial Institutions (GST/HST) Regulations* (FLRP 17);
- *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* (FLRPs 18, 19(2) to 21).

Moreover, with regard to FLRP 19(1), it should be noted that it was previously announced, in *Information Bulletin 2022-8* of December 16, 2022, that the QST system would be harmonized with the proposed amendments to the GST/HST system which were made public by the Department of Finance Canada in a news release issued on August 9, 2022, regarding the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*.

In addition, certain measures have not been retained because the Québec system is satisfactory in their regard or because they do not correspond to the characteristics of the QST system, or the latter does not contain corresponding provisions. These are, on the one hand, the measure concerning the exception to the reporting period (FLRP 5) and, on the other hand, the measures concerning the *Real Property (GST/HST) Regulations* (FLRPs 22 to 24).

## □ Application dates

The amendments to the Québec taxation system will be adopted only following assent to any federal statute or adoption of any federal regulation giving effect to the federal proposals, taking into account any technical amendments that may be made prior to the assent or adoption, as the case may be. Moreover, they will apply from the same dates as the dates chosen for the application of the federal proposals with which they harmonize, with the exception of the federal proposal relating to the definition of “bank” (FLRP 1), which will apply as of January 1, 2013.

<sup>22</sup> References in brackets correspond to the numbers of the federal legislative and regulatory proposals (FLRPs) announced by the Department of Finance Canada on August 12, 2024.

### 3. Amendments to exclude the Canadian Dental Care Plan from the application of the Québec tax system

On March 28, 2023, as part of its 2023 budget, the federal government announced the implementation of the Canadian Dental Care Plan (hereinafter referred to as “the Canadian Plan”), a program intended to cover the cost of certain oral health care services for eligible Canadian residents.<sup>23</sup>

This plan is being gradually implemented since May 1, 2024, and is administered by Health Canada with support from a third-party benefits administrator, that is, an insurance corporation. This corporation is responsible, among other things, for processing claims and paying benefits to oral health professionals or to beneficiaries of the Canadian Plan. The federal government is also paying the insurance corporation management fees with respect to these services.

Briefly, when an insurance corporation, which carries on a business in Québec, administers an uninsured social benefits plan, it must pay, as tax on capital of insurance corporations, an amount equal to 3% of any taxable premium paid to it or deemed to be paid to it in respect of a person resident in Québec at the time of payment.

On that matter, the benefits paid by an insurance corporation to the providers of insured services or to the beneficiaries under an uninsured social benefits plan, and the fees paid to an insurance corporation as part of the administration of such plan constitute taxable premiums. It is also provided that certain taxable premiums, when prescribed by regulation, may be excluded from the application of the tax on capital of insurance corporations.

Moreover, any insurance corporation subject to the tax on capital of insurance corporations which is, at any time in a taxation year, a financial institution, must pay a compensation tax that is calculated based on the taxable premiums subject to the tax on capital of insurance corporations.

Since the Canadian Plan could be considered as an uninsured social benefits plan and since the federal government relies on the services of an insurance corporation to administer it, the tax on capital of insurance corporations and the compensation tax for financial institutions could apply to amounts payable under the Canadian Plan, which is contrary to the underlying tax policy.

Accordingly, in order to exclude the amounts payable under the Canadian Plan from the application of the tax on capital of insurance corporations and the compensation tax for financial institutions, the tax regulation will be amended such that the benefits paid under the Canadian Plan to oral health professionals or to the plan’s beneficiaries and the fees paid to a third-party benefits administrator in respect of the plan’s administration be designated as prescribed taxable premiums for the application of the tax on capital of insurance corporations. For greater clarity, in the absence of taxable premiums for the application of the tax on capital of insurance corporations, the basis for the compensation tax for financial institutions in this respect will be null and, as such, no compensation tax will be payable.

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<sup>23</sup> DEPARTMENT OF FINANCE CANADA, *Budget 2023*, [Online], March 28, 2023, p. 62, [<https://budget.canada.ca/2023/pdf/budget-2023-en.pdf>].

Furthermore, in order to maintain coherence in the Québec tax system, Title III of the *Act respecting the Québec sales tax* will be amended to expressly exempt the amounts payable under the Canadian Plan from the application of the tax on insurance premiums in the same manner as the amounts payable under other insurance plans of a social nature in respect of which an exemption is specifically provided.

□ **Application date**

These amendments apply to amounts payable under the Canadian Plan after March 28, 2023.