

Harmonization with certain tax measures proposed in the federal budget of November 4, 2025

On November 4, 2025, the Minister of Finance of Canada presented the federal government's budget for the year 2025. On that occasion, he tabled, in the House of Commons, supplementary information describing each of the tax measures proposed in the budget, as well as Notices of Ways and Means Motions proposing amendments to the related federal tax legislation and regulations.¹

The proposed amendments are currently being studied by the Ministère des Finances du Québec, and harmonization decisions in this regard will be announced at a later date.

However, the Ministère des Finances du Québec wishes to now make public its position on the harmonization of Québec tax legislation with certain changes announced concerning federal tax legislation.

□ Measure relating to income tax

■ 21-year rule – Broadening of the anti-avoidance rule

Generally, the tax provisions applicable to a trust provide, subject to certain exceptions,² for the deemed disposition of certain types of property at the property's fair market value 21 years after the date the trust was created, and every 21st anniversary thereafter (hereinafter referred to as "21-year rule"). This limits the time for postponing tax on the unrealized gains accruing on property held in a personal trust.

Property subject to the 21-year rule include each property (other than exempt property) that is capital property or land included in the inventory of a business, as well as certain Canadian and foreign resource property.

To prevent the avoidance of the 21-year rule, tax legislation stipulates that, if a trust transfers property to another trust, the new trust essentially inherits the 21-year anniversary of the old trust. Therefore, a tax deferral will not be possible on the transferred property to a new trust, which must, as of the date of the old trust's planned disposition, recognize the capital gain on this property or recognize other tax effects on the property, as the case may be.

¹ DEPARTMENT OF FINANCE CANADA, *Budget 2025 – Tax Measures: Supplementary Information*, [Online], November 4, 2025, [<https://budget.canada.ca/2025/report-rapport/tm-mf-en.html>].

² Trusts that are not subject to the 21-year rule include, among other things, *alter ego* trusts, joint spousal trusts and spousal trusts. In these three types of trust, the disposition takes place only on the day of the death of the individual who is the settlor or their spouse, as the case may be.

However, some planning techniques have been employed to indirectly avoid the 21-year rule. For example, a trust that distributes property to a beneficiary that is a corporation owned by a new trust avoids the tax consequences of the 21-year rule through this indirect transfer. It should be noted that the Canada Revenue Agency indicates on its website that this type of transaction can lead to the application of the general anti-avoidance rule.³

Therefore, the federal government's 2025 budget proposes amending tax legislation to broaden the current anti-avoidance rule regarding the 21-year rule in order to include indirect transfers of trust property from one trust to another. This measure would apply in respect of transfers of property that occur on or after the day of said budget.

Given that the Québec tax system is substantially harmonized with the federal tax system with respect to the 21-year rule, Québec tax legislation will be amended, by adapting it in accordance with its general principles, to broaden the current anti-avoidance rule for direct transfers between trusts to include indirect transfers of property from one trust to another.

These amendments will apply as of the same date as that retained for the application of the amendments to the federal tax system giving effect to this measure. In addition, the amendments to the Québec tax system will be adopted only following assent to any federal legislation giving effect to this measure, taking into account any technical amendments that may be made prior to assent.

For greater clarity, the other provisions of the Québec tax system relating to trusts, and more specifically to the 21-year rule, will remain unchanged.⁴

□ Measure relating to the goods and services tax and the harmonized sales tax

The Ministère des Finances du Québec is also announcing that, 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), an amendment will be made to the QST system to incorporate, by adapting it in accordance with its general principles, the federal measure concerning the repeal of an outdated reference that applied to osteopathic doctors in the exemption provisions for health care services (BRs 1 and 2).⁵ Osteopathic doctors are now regulated as osteopathic physicians and are therefore covered by the general exemption for individuals who practice the profession of medicine.

³ CANADA REVENUE AGENCY, *General anti-avoidance rule (GAAR)*, [Online], January 9, 2025, [<https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/how-combat-tax-evasion-avoidance/general-anti-avoidance-rule.html#toc4>].

⁴ For example, the possibility of making the election introduced on February 21, 2017, concerning the deferral of the payment of tax on certain deemed dispositions of interests in a qualified public corporation remains unchanged. (MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2017-3*, February 21, 2017, pp. 4-9; *Id.*, *Information Bulletin 2019-10*, November 7, 2019, pp. 11-13).

⁵ The references in parentheses correspond to the number of the budget resolutions (BRs) of the *Notice of Ways and Means Motion to amend the Excise Tax Act*, tabled in the House of Commons on November 4, 2025. (<https://budget.canada.ca/2025/report-rapport/nwmm-amvm-2-en.html>).

The amendment to the QST system will be adopted only following assent to any federal statute giving effect to this measure, taking into account any technical amendments that may be made prior to assent. In addition, it will apply from the same dates as those retained for the application of the federal measure with which it harmonizes.

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