

Adjustments to certain fiscal measures

This information bulletin aims to make public amendments to the new tax holiday relating to the carrying out of a large investment project, in order to provide greater flexibility and clarity with respect to certain terms and conditions of this measure and introduce a holiday from the public utility tax.

It also announces adjustments to the refundable tax credit for international financial centres in respect of back-office activities or activities relating to an eligible contract.

Lastly, it announces the extension of the easing of the notion of government assistance for the application of the tax credit for the production of biofuel and the tax credit for the production of pyrolysis oil in Québec.

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 secteurdroitfiscaletdelafiscalite@finances.gouv.qc.ca.

The English and French versions of this bulletin are available on the government website Quebec.ca.

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1. Amendments to the new tax holiday relating to the carrying out of a large investment project

The new tax holiday relating to the carrying out of a large investment project (hereinafter referred to as the “new tax holiday”) was introduced as part of the March 21, 2023 budget¹ to accelerate wealth creation in Québec, while further promoting investments in territories facing low economic vitality.

Briefly, under the new tax holiday, a corporation that carries out a large investment project in Québec may, under certain conditions, benefit from an income tax holiday and a holiday from the employer contribution to the Health Services Fund (HSF) for a 10-year tax-free period.

Similarly, a partnership that carries out a large investment project in Québec may also, under certain conditions, benefit from a holiday from the employer contribution to the HSF. A corporation that is a member of the partnership may benefit from a tax holiday in respect of its share of the partnership’s income.

In general, the total tax assistance relating to the new tax holiday that a corporation or partnership can benefit from for its tax-free period is calculated by applying a rate of 15%, 20% or 25% to the cumulative total eligible expenses related to the carrying out of the large investment project. The cumulative total eligible expenses of a corporation or partnership at the end of a particular taxation year or fiscal period, in relation to a large investment project, is the lesser of \$1 billion and the total eligible expenses of the corporation or partnership at the end of the year or period in relation to the large investment project.

To benefit from the new tax holiday, a corporation or partnership must obtain an initial qualification certificate and annual certificates from the Minister of Finance. These annual certificates certify that the corporation or partnership is carrying out, in the taxation year or fiscal period, as the case may be, the large investment project in respect of which an initial qualification certificate was issued.

As part of this information bulletin, amendments are made to provide greater flexibility and clarity with respect to certain terms and conditions of the new tax holiday, offer greater predictability to corporations and partnerships that wish to benefit from it, and ensure the sound implementation of this measure.

These amendments will:

- provide a framework for situations where expenses relating to the acquisition of immovable properties used in carrying out a large investment project are incurred by a separate corporation or partnership;
- introduce a holiday from the public utility tax (PUT);

¹ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2023-2024 – Additional Information*, March 21, 2023, pp. A.17-A.36.

- provide a framework for the transfer of activities relating to a large investment project before the issuance of a first annual certificate;
- provide a clarification relating to capital investments attributable to the carrying out of an investment project for the application of the \$1 million rule;
- ease the exclusion relating to labour expenditures.

❑ Amendments relating to the acquisition of immovable properties by a separate corporation or partnership

In general, an initial qualification certificate is issued to a corporation or partnership for an investment project carried out in Québec if the corporation or partnership shows, to the Minister of Finance's satisfaction, that it is likely that, at or before the end of the investment period of the project, the total capital investments attributable to the carrying out of the project will be at least \$100 million.

In summary, capital expenditures relating to the acquisition of an immovable property may be considered investment expenditures attributable to the carrying out of a large investment project.

However, the *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter referred to as the "Sectoral Act") and the tax legislation do not currently provide a framework for situations in which investment expenditures relating to the acquisition of immovable properties used in carrying out a large investment project are incurred by a corporation or partnership that is separate from the one carrying out the large investment project.

■ Designation of a corporation or partnership in respect of the acquisition of immovable properties

The Sectoral Act will be amended so that the Minister of Finance can designate a corporation or partnership that incurs expenditures relating to the acquisition of immovable properties, including expenditures relating to an extension or addition to an immovable property, that are necessary for the carrying out of the investment project. The name and business number of that corporation or partnership (hereinafter referred to as the "designated corporation" or "designated partnership") will be indicated on the initial qualification certificate issued to the corporation or partnership carrying out the investment project. The designation will also be indicated on the annual certificates issued by the Minister of Finance to the corporation or partnership carrying out the activities arising from the large investment project.

This designation may be made when the initial qualification certificate is issued for an investment project or at any time during the investment period for the large investment project.

The Sectoral Act will also be amended so that expenditures relating to the acquisition of immovable properties, including expenditures relating to an extension or addition to an immovable property, that are required for the carrying out of the investment project and incurred by the designated corporation or designated partnership after such designation will be considered investment expenditures attributable to the carrying out of the large investment project, provided that these expenditures meet the conditions set out in the Sectoral Act.²

The Minister of Finance will therefore take into account both the expenditures incurred by the designated corporation or designated partnership in respect of the acquisition of immovable properties, including expenditures relating to an extension or addition to an immovable property, and the investment expenditures incurred by the corporation or partnership carrying out the investment project when calculating the total capital investments attributable to the carrying out of the project to determine whether the \$100 million threshold has been reached.

The Sectoral Act will also be amended so that, if a corporation or partnership holds an initial qualification certificate for a large investment project it is carrying out and a corporation or partnership has been designated in respect of the acquisition of immovable properties, the Minister of Finance may issue an annual certificate for the investment project for a taxation year or fiscal period, as the case may be, only if, at any time in the year or period, the total investment expenditures attributable to the carrying out of the investment project incurred by the corporation or partnership with the initial qualification certificate is at least \$50 million. For greater clarity, this \$50 million threshold must be reached without taking into account the expenditures incurred by the designated corporation or designated partnership.

■ **Qualified real estate corporation and qualified real estate partnership**

The tax legislation will be amended so that a designated corporation or designated partnership can benefit from the new tax holiday if it is a qualified real estate corporation or a qualified real estate partnership, for a taxation year or fiscal period, as the case may be.

The expression “qualified real estate corporation” or “qualified real estate partnership”, for a taxation year or fiscal period, as the case may be, will refer to a corporation or partnership, other than an excluded corporation for the year or an excluded partnership for the period, that, in that year or period, as the case may be, has an establishment in Québec and:

- has been designated on the initial qualification certificate issued for a qualified corporation or a qualified partnership carrying out activities arising from a large investment project (hereinafter referred to as the “particular corporation” or “particular partnership”);

² Act respecting the sectoral parameters of certain fiscal measures, Schedule E, section 10.11.

- throughout the taxation year or fiscal period, is associated with the particular corporation or particular partnership;
- derives at least 75% of its gross income for the taxation year or fiscal period from the leasing of immovable properties used primarily in carrying out the large investment project for which the particular corporation or particular partnership has received an initial qualification certificate and an annual certificate.

The tax legislation will also be amended so that, for the application of the new tax holiday, the gross income of a corporation or partnership for a taxation year or fiscal period, as the case may be, that is derived from the leasing of an immovable property that is used primarily during the taxation year or fiscal period in carrying out a large investment project of the particular corporation or particular partnership will be deemed not to be income derived from activities carried out in one or more excluded sectors of activities.

For greater clarity, to determine whether one corporation or partnership is associated with another corporation or partnership, a partnership will be deemed to be a corporation whose taxation year corresponds to its fiscal period and all the voting shares in the capital stock of which are owned at the given time by each member of the partnership in a proportion equal to the member's agreed proportion for the partnership's fiscal period that includes that time.

■ **Claiming the new tax holiday as a qualified real estate corporation or a qualified real estate partnership**

The tax legislation will be amended so that the total eligible expenses of a qualified real estate corporation or qualified real estate partnership at a particular time corresponds to the expenditures relating to the acquisition of immovable properties, including expenditures relating to an extension or addition to an immovable property, that it has incurred before that time and during the investment period in respect of a large investment project carried out by the particular corporation or particular partnership.

The cumulative total eligible expenses incurred by the qualified real estate corporation or the qualified real estate partnership and the particular corporation or the particular partnership in respect of a large investment project may not exceed \$1 billion. The maximum cumulative total eligible expenses must therefore be allocated between the qualified real estate corporation or the qualified real estate partnership and the particular corporation or the particular partnership under a sharing agreement.

In addition, the tax legislation will be amended so that the adjusted taxable income of a qualified real estate corporation, for a taxation year, or the adjusted income of a qualified real estate partnership, for a fiscal period, equals its taxable income for the year or income for the period, excluding the excess of its taxable capital gains over its allowable capital losses for that year and the portion of its taxable income or income attributable to its income from property, other than income derived from the leasing of an immovable property used primarily in carrying out the particular corporation or the particular partnership large investment project.

■ Transfer of a large investment project

The Sectoral Act will be amended so that the Minister of Finance can authorize the transfer of activities arising from the carrying out of a large investment project from a corporation or partnership to another corporation or partnership, without requiring that an immovable property held by a designated corporation or designated partnership be transferred. The terms and conditions provided for in the Sectoral Act and the tax legislation will apply to the transfer. However, failure to transfer immovable properties held by the designated corporation or designated partnership will not affect the determination of whether the condition requiring the transfer of all or substantially all of the portion of the business carried on in Québec in connection with activities arising from the carrying out a large investment project has been met.

Similarly, the Minister of Finance may authorize the transfer of an immovable property held by one designated corporation or one designated partnership to another corporation or partnership. In such a case, the Minister of Finance may designate the transferee corporation or partnership on the initial qualification certificate issued to the corporation or partnership carrying out the activities arising from the large investment project. This designation will also appear on the annual certificates issued to the corporation or partnership. The terms and conditions provided for in the Sectoral Act and the tax legislation will apply to the transfer.

■ Application date

These amendments will apply to an application for the issuance or amendment of an initial qualification certificate filed after the day this information bulletin is published.

□ Introduction of a holiday from the public utility tax

In general, operators of a telecommunications system, a gas distribution system or an electric power production, transmission or distribution system are subject to a special regime under which they must pay a public utility tax³ (PUT) to the Minister of Revenue.

Accordingly, a person or partnership that operates such a system in a calendar year must pay the PUT on or before March 1 of that year. The PUT is calculated on the net value of the assets that are part of an operator's system.

Briefly, the value of the tax assistance of a qualified corporation or a qualified partnership relating to a large investment project, for a taxation year or fiscal period, as the case may be, is equal to the total of the income tax assistance in respect of the investment project from which the qualified corporation or a corporation that is a member of the qualified partnership benefited for the taxation year (hereinafter, the "income tax assistance"), and the tax assistance relating to the holiday from the employer contribution to the HSF from which the qualified corporation or qualified partnership benefited for all or part of a calendar year included in the taxation year (hereinafter, the "HSF holiday tax assistance").

³ The public utility tax rules are set out in Part VI.4 of the *Taxation Act*.

The new tax holiday does not currently apply to the PUT. Consequently, a qualified corporation or qualified partnership that holds an initial qualification certificate and an annual certificate for a large investment project cannot benefit from a PUT holiday the way it benefits from an income tax holiday or a holiday from the employer contribution to the HSF.

In order to provide additional support for businesses with investment projects, the new tax holiday will be expanded to allow a qualified corporation or qualified partnership carrying out a large investment project to benefit from a PUT holiday.

The tax legislation will therefore be amended so that a qualified corporation or a qualified partnership that carries out a large investment project in Québec in a taxation year or fiscal period can benefit from a PUT holiday during its tax-free period (hereinafter, the “PUT holiday tax assistance”).

For greater clarity, the PUT holiday granted to a qualified corporation for a taxation year, or to a qualified partnership for a fiscal period, in respect of a large investment project will apply to the PUT payable on or before March 1 that falls within that taxation year or fiscal period, as the case may be, and within the corporation or partnership’s tax-free period.

However, the total value of a qualified corporation’s income tax assistance, HSF holiday tax assistance and PUT holiday tax assistance in respect of a large investment project, for a taxation year included in whole or in part in its tax-free period applicable to the investment project, may not exceed the corporation’s maximum annual amount of tax assistance for that taxation year.

Similarly, the total value of a qualified partnership’s HSF holiday tax assistance and PUT holiday tax assistance in respect of a large investment project, for a fiscal period included in whole or in part in its tax-free period applicable to the investment project, may not exceed the partnership’s maximum annual amount of tax assistance for that fiscal period.

The tax legislation will also be amended so that, for the purpose of calculating a qualified corporation or qualified partnership’s maximum annual amount of tax assistance for a given taxation year or fiscal period, as the case may be, the value of the PUT holiday tax assistance it has received for a taxation year or fiscal period ending before the beginning of that year or period is taken into account.

To benefit from a PUT holiday, a qualified corporation or qualified partnership must file an application using the prescribed form and include a copy of its annual certificate for the taxation year or fiscal period, for which the PUT is payable on or before March 1, that falls within that taxation year or fiscal period, as the case may be, and its tax-free period.

■ Reimbursement in respect of the PUT deemed paid

In summary, if a corporation or partnership that is an operator in a given calendar year is required to pay the PUT for that year, and a municipality or a municipal or public body performing a function of government in Canada⁴ (hereinafter, a “body”) holds a portion of the shares of the capital stock of the corporation or a portion of the interests in the partnership, a reimbursement in respect of the PUT paid is granted to the municipality and/or the body.

The tax legislation will be amended so that a municipality and/or a body that holds, directly or indirectly through one or more corporations or partnerships, a portion of the shares of the capital stock of a corporation carrying out a large investment project, or a portion of the interests in a partnership carrying out such a project, cannot claim a refund of PUT with respect to an amount of PUT paid by the corporation or partnership carrying out the large investment project on or before March 1 that falls within the corporation or partnership’s tax-free period.

■ Application date

These amendments will apply in respect of an investment project for which an application for initial qualification certificate is filed after March 21, 2023.

□ Easing of the rules for the transfer of activities relating to a large investment project

Briefly, the Minister of Finance may agree to the transfer of activities, arising from the carrying out of a large investment project for which a first annual certificate has been issued, from one corporation or partnership (hereinafter referred to as the “transferor”) to another corporation or partnership (hereinafter referred to as the “transferee”). The transferee must then undertake to continue, in Quebec, carrying out all or almost all of such project, as it was presented to the Minister of Finance and accepted by him.

The Sectoral Act and the tax legislation do not currently provide a framework for the transfer of activities relating to a large investment project for which a first annual certificate has not been issued.

The Sectoral Act will be amended so that the Minister of Finance can, under certain conditions, authorize the transfer of activities relating to a large investment project for which the first annual certificate has not been issued. The transferee must then undertake to continue carrying out all or substantially all of the project in Québec.

When applying for a transfer, the transferor and the transferee must indicate to the Minister of Finance whether they are making a joint election in respect of expenditures incurred before the transfer, so that the investment expenditures incurred by the transferor prior to the transfer can be taken into account in calculating the transferee’s total capital investments attributable to the carrying out the investment project.

⁴ Certain Indigenous governing entities may be considered such bodies.

If the Minister of Finance approves the transfer application, the transferee may continue the investment period started by the transferor. For this purpose, the transferee's investment period will be deemed to have begun on the date indicated by the Minister of Finance on the initial qualification certificate issued to the transferor.

If all the conditions provided for in the Sectoral Act are met, the transferee may apply to the Minister of Finance, in its own name, to have a first annual certificate issued for the transferred large investment project. A copy of the transfer authorization by the Minister of Finance must be sent to Revenu Québec. The Minister of Finance will indicate the date on which the activities were transferred and, if applicable, include a statement that the transferor and transferee have made a joint election in respect of expenditures incurred by the transferor prior to the transfer of the investment project.

■ **Introduction of a joint election in respect of expenditures incurred prior to the transfer**

The Sectoral Act will be amended so that, at the time of the application for the transfer of an investment project, a joint election may be made so that the transferee's total capital investments attributable to the carrying out of the investment project are equal to the total capital investments incurred by the transferor prior to the transfer and the total capital investments that will be incurred by the transferee for the investment project after the transfer.

In order for this joint election to be made, the transferor must, at the time of the transfer application, provide the Minister of Finance an undertaking to disclose all relevant information regarding the expenditures it has incurred and will fully cooperate with Revenu Québec in the audit of such expenditures.

In addition, the Sectoral Act will be amended to require the transferee, when applying for the first annual certificate, to include an independent auditor's report certifying, among other things, the transferor's total capital investments attributable to the carrying out of the investment project that it incurred from the beginning of the investment period up to the time of the transfer, and those incurred by the transferee since the transfer, the allocation of these expenditures based on where the property was acquired to be used mainly, the total amount of government or non-government assistance attributable to an investment expenditure that the transferor and the transferee have received, are entitled to receive or can reasonably expect to receive as at the time of the application, and any other information that may be required by the Minister of Finance for the application of the new tax holiday.⁵

The tax legislation will also be amended so that, if a corporation or partnership has acquired a large investment project before the Minister of Finance has issued the first annual certificate for that project, and that corporation or partnership and the transferor have made a joint election in respect of expenditures incurred prior to the transfer, the expenditures incurred by the transferor in carrying out the investment project will be deemed to be expenditures incurred by the transferee for the calculation of the total eligible expenses for the application of the new tax holiday.

⁵ For greater clarity, an independent auditor's report does not in any way limit the Minister of Finance's auditing powers for the application of this measure.

The tax legislation will likewise be amended so that, if such a joint election has been made, each amount of government or non-government assistance that the transferor has received, is entitled to receive or may reasonably expect to receive and that is attributable to an expenditure included in the transferee's total eligible expenses will be deemed, for the calculation of the cumulative total eligible expenses for the application of the new tax holiday, to be amounts that the transferee has received, is entitled to receive or may reasonably expect to receive.

■ **Application date**

These amendments will apply to a transfer application filed after the day this information bulletin is published.

□ **Clarification relating to capital investments attributable to the carrying out of an investment project for the application of the \$1 million rule**

Briefly, a corporation or partnership that wishes to benefit from the new tax holiday must apply to have an initial qualification certificate issued before the carrying out of the investment project begins. The Sectoral Act currently provides that the carrying out of a project begins when the total capital investments attributable to its carrying out exceed \$1 million.

However, the concept of "carrying out" for the application of the \$1 million rule is not defined in the Sectoral Act. In order to clarify when the carrying out of an investment project begins and therefore provide greater predictability as to when an application for an initial qualification certificate must be filed, a clarification will be made so that certain investments are not considered to be capital investments attributable to the carrying out an investment project.

The Sectoral Act will be amended accordingly to specify that pre-project expenses, including investments relating to the acquisition of land, a market study or a feasibility study, incurred by a corporation or partnership in respect of an investment project are not considered to be capital investments attributable to the carrying out of that project for the application of the \$1 million rule.

■ **Application date**

This amendment will apply in respect of an investment project for which an application for an initial qualification certificate is filed after March 21, 2023.

□ Easing of the exclusion relating to labour expenditures

In general, the “total capital investments attributable to the carrying out of an investment project” and the “total eligible expenses” as provided respectively in the Sectoral Act and the tax legislation, include all the capital expenditures incurred by a corporation or partnership during the investment period applicable to the large investment project, for the acquisition of new property required for the carrying out of the project. However, these totals do not include labour expenditures⁶, other than those related to the installation of property.

The Sectoral Act and the tax legislation will be amended to specify that labour expenditures are not included in either the “total capital investments attributable to the carrying out of an investment project” or the “total eligible expenses,” except for those relating to the installation of property, the preparation of plans and specifications, the engineering, construction and assembly of property.

■ Application date

These amendments will apply in respect of an investment project for which an application for an initial qualification certificate is filed after March 21, 2023.

2. Adjustments to the refundable tax credit for international financial centres in respect of back-office activities or of activities relating to an eligible contract

Since 1986,⁷ the Québec government has promoted, mainly by means of tax incentives, the establishment, development and maintenance within the urban agglomeration of Montréal of businesses specializing in the financial sector as well as the development of Montréal as a world-class financial centre.

On March 30, 2010, most of the tax incentives available to international financial centres (IFCs) were replaced by a refundable tax credit based on the qualified wages incurred by a corporation operating an IFC in respect of its eligible employees.⁸

⁶ Labour expenditure means salaries or wages incurred in respect of employees of the corporation or partnership carrying out the large investment project and consideration incurred for services rendered to the corporation or partnership in connection with the large investment project, regardless of whether the individuals, corporations or partnerships rendering such services are dealing at arm’s length with the corporation or a member corporation of the partnership.

⁷ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 1985-1986 – Discours sur le budget*, 23 avril 1985, p. 24 et annexe A, p. A-41-A-42.

⁸ Id., *Budget 2010-2011 – Additional Information on the Budgetary Measures*, March 30, 2010, pp. A.53-A.62.

Subsequently, on March 26, 2015, the refundable tax credit was replaced by a non-refundable tax credit, except for certain back-office activities of an IFC that allow a corporation to benefit from a refundable tax credit when such activities relate to qualified international financial transactions (QIFTs).⁹

More recently, on December 20, 2017, the refundable tax credit for IFCs in respect of back-office activities was amended to include activities relating to an eligible contract.¹⁰

In summary, to be an eligible contract of a corporation, a contract must, among other things, be entered into with a foreign financial entity and, under that contract, the corporation must undertake to render services to the foreign financial entity that consist mainly in carrying out qualified international financial operations (QIFOs) on its behalf. In addition, these QIFOs must pertain to a business all or substantially all of which the foreign financial entity carries on outside Canada and that has not previously been carried on in Canada.

To benefit from the refundable tax credit for activities relating to an eligible contract, the corporation must, among other things, obtain a contract qualification certificate in respect of each of the contracts for which it wishes to benefit from the refundable tax credit. The contract qualification certificate certifies that the contract referred to in the certificate is recognized by the Minister of Finance as an eligible contract. It also specifies the QIFOs and related activities that the corporation carries out or intends to carry out in connection with that contract.

The *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter, the “Sectoral Act”) currently states that a contract qualification certificate may be obtained only once. It also states that such a certificate is valid until the last day of the 10-year period that begins on the date on which the contract qualification certificate is applied for or, if it is later, the date on which the activities provided for in the contract referred to in the contract qualification certificate begin to be carried out.

To promote the development and retention of corporations currently carrying on an IFC within the urban agglomeration of Montréal, the Sectoral Act will be amended to remove the 10-year expiration date currently applicable to contract qualification certificates.

This amendment will apply to contract qualification certificates issued in response to an application filed after December 20, 2017.

For greater clarity, the Minister of Finance will be able to amend already issued contract qualification certificates to which this amendment applies to remove the expiration dates.

Moreover, to refocus the tax assistance granted to IFCs for activities relating to an eligible contract, the Sectoral Act will be amended so that only information technology activities can be recognized as related activities for the application of the refundable tax credit for IFCs in respect of activities relating to an eligible contract.

⁹ Id., *Budget 2015-2016 – Additional Information 2015-2016*, March 26, 2015, pp. A.95-A.100. See also: the *Act respecting international financial centres* (CQLR, chapter C-8.3), s. 7, par. 22.

¹⁰ Id., *Information Bulletin 2017-14*, December 20, 2017, pp. 5-11.

For greater clarity, since human and material resources management activities and promotion and marketing activities are already excluded from the definition of QIFOs, the refocus for related activities will result in human and material resources management activities and promotion and marketing activities no longer allowing to fulfill the requirement that, for the application of the employee qualification certificate and employee certificate, at least 75% of an employee's duties must be directly attributable to the carrying out of the activities provided for in an eligible contract.

Accordingly, the Sectoral Act will be clarified so that the requirement that, for the application of the employee qualification certificate and employee certificate, at least 75% of an employee's duties must be directly attributable to the carrying out of the activities provided for in a eligible contract will now specify that at least 75% of the employee's duties must be directly attributable to the QIFOs or related activities specified on the corporation's contract qualification certificate.

These amendments will apply to an application for a certificate filed for a corporation's taxation year beginning after December 31, 2027.

For greater clarity, when processing such an application, the Minister of Finance will be able to amend the related activities specified on a certificate that has already been issued to the corporation.

3. Extension of the easing of the notion of government assistance for the application of the tax credit for the production of biofuel and the tax credit for the production of pyrolysis oil in Québec

To intensify its fight against climate change, the government offers, among other incentives to businesses, two refundable tax credits, namely:

- the refundable tax credit for the production of pyrolysis oil in Québec, introduced in the 2018-2019 budget;¹¹
- the refundable tax credit for the production of biofuel in Québec, introduced in the 2022-2023 budget.¹²

The terms and conditions of these tax assistance measures are very similar. They are respectively granted for eligible biofuel or pyrolysis oil produced and sold in Québec by qualified corporations before April 1, 2033.

¹¹ MINISTÈRE DES FINANCES DU QUÉBEC, *The Québec Economic Plan – Additional Information 2018-2019*, March 27, 2018, pp. A.100-A.104.

¹² Id., *Budget 2022-2023 – Additional Information*, March 22, 2022, pp. A.11-A.22.

In general, a corporation, other than an exempt corporation, that, in a taxation year, has an establishment in Québec where it carries on business engaged in the production of biofuel or pyrolysis oil may, under certain conditions, benefit from the tax credit for the production of biofuel or the tax credit for the production of pyrolysis oil, as the case may be, for that year.

The rate of the tax credit for the production of biofuel in Québec is determined in particular by the carbon intensity reduction of the eligible biofuel compared to the gasoline or diesel fuel that it replaces, over its life cycle. As for the tax credit for the production of pyrolysis oil in Québec, the rate of this tax credit takes into account the reduction in carbon intensity induced by this biofuel, compared to the fuel that it replaces, over its life cycle.

A monthly limit on the production of biofuel or pyrolysis oil is provided for, which is equal, for a particular month, to the result obtained by multiplying 821,917 litres by the number of days in the particular month.

In general, the tax legislation provides rules to prevent the cumulation of government and non-government assistance. As such, the amount of the refundable tax credit for the production of biofuel in Québec and the refundable tax credit for the production of pyrolysis oil in Québec from which a qualified corporation may benefit must be reduced by the amount of any government assistance, non-government assistance, benefit or advantage attributable to the eligible production of biofuel and pyrolysis oil.

For the application of these tax credits, the value of compliance credits granted to a corporation under the *Clean Fuel Regulations*¹³ is considered to be government assistance received or receivable by the corporation, for a taxation year beginning after December 31, 2027, when the following conditions are met:¹⁴

- as part of this regulation, a credit market is established;
- compliance credits are issued to the qualified corporation in respect of its eligible production of biofuel or pyrolysis oil, as the case may be;
- a value is assigned to these compliance credits.

In August 2022, the U.S. government passed legislation¹⁵ revising and implementing several measures aimed, in particular, at stimulating biofuel production in the United States. One such measure is the Clean Fuel Production Credit, a tax credit on the production of biofuels produced in the United States after December 31, 2024, and used or sold on or before December 31, 2027.

¹³ *Clean Fuel Regulations* (SOR/2022-140). This federal regulation was registered on June 21, 2022.

¹⁴ *Taxation Act*, s. 1029.6.0.0.1, para. 4.

¹⁵ *Inflation Reduction Act of 2022*, H.R.5376.

In response to the U.S. subsidies granted under this initiative, the Québec government announced, in the Budget Speech delivered on March 12, 2024,¹⁶ the postponement of the application of the rule aimed at preventing the cumulation of government and non-government assistance with respect to the value of compliance credits granted to a corporation under the *Clean Fuel Regulations*.

Accordingly, for the application of the tax credit for the production of biofuel in Québec and the tax credit for the production of pyrolysis oil in Québec, under current legislation, the expression “government assistance” includes the value of compliance credits granted to a corporation under the *Clean Fuel Regulations*, where the aforementioned conditions are met, but only as of a corporation’s taxation year beginning after December 31, 2027.

More recently, in July 2025, the United States government passed legislation¹⁷ to extend the Clean Fuel Production Credit to December 31, 2029.

In response to the extension of the U.S. subsidies granted under this initiative, the Québec government is now announcing that the tax legislation will be amended to extend the easing of the rule aimed at preventing the cumulation of government and non-government assistance with respect to the value of compliance credits granted to a corporation under the *Clean Fuel Regulations*.

Consequently, for the application of the tax credit for the production of biofuel in Québec and the tax credit for the production of pyrolysis oil in Québec, the expression “government assistance” will include the value of compliance credits granted to a corporation under the *Clean Fuel Regulations*, where the aforementioned conditions are met, but only as of a corporation’s taxation year beginning after December 31, 2029.

¹⁶ MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2024-2025 – Additional Information*, March 12, 2024, pp. A.32-A.33.

¹⁷ *One Big Beautiful Bill Act*, H.R. 1.