

Tax Memo

2010 Quebec Budget – Highlights

Quebec Minister of Finance Raymond Bachand presented the government's budget on March 30, 2010. The budget does not change corporate or personal tax rates.

The highlights of the provincial budget are outlined below. In a few hours, PricewaterhouseCoopers will issue a more detailed *Tax Memo* that discusses the budget.

Business Tax Changes

Revision of the mining duties regime

To allow fair compensation for the use of a non-renewable resource that belongs to the public domain, the tax rate will be raised gradually to 16% by January 1, 2012:

- Up to the budget: 12%
- 2010 after the budget: 14%
- 2011: 15%
- 2012: 16%

Changes to three of the allowances an operator may claim

- The rate of the depreciation allowance for property, i.e. a road, a building, equipment or a service property acquired after the day of the Budget Speech and regularly used in mining operations will be 30% instead of 100%;
- Change to the parameters of the processing allowance:
 - The rates of return of 8% and 15% allowed on processing assets will be reduced to 7% and 13% respectively;
 - The 7% rate of the proportional reduction applicable to the 15% rate in the case where an operator's assets are used for concentration of ore that is not smelted or refined by such operator, will be replaced by a 6% rate;
 - The higher 23% and 30% rates of return regarding processing assets of mine tailings will be eliminated;
 - The limit of 65% based on annual profit will be reduced to 55%.
- Replacement of the additional allowance for a northern mine with an additional allowance for a mine located in Northern Québec.
 - This allowance will cover, in addition to the Far North, the Mid-North, i.e. a larger territory than the existing allowance covers.
 - The amount of the additional allowance for a mine located in Northern Québec that an operator may claim regarding a new mine will correspond to \$2 million, over a period of 36 months, for each new mine located in the Mid-North and \$5 million, over a period of 36 months, for each new mine located in the Far North.

Changes concerning exploration, mineral deposit evaluation and mine development expenses

- Creation of separate cumulative accounts for exploration expenses, mine development and mineral deposit evaluation expenses before production and mine development and mineral deposit evaluation expenses after production each giving rise to a separate allowance.
- Elimination of the additional exploration allowance regarding exploration expenses incurred after the day of the Budget Speech;
- Mineral deposit evaluation and mine development expenses after production covered by flow-through financing and covered by a waiver, under the *Taxation Act*, are deemed not to be such expenses incurred by such operator.

Changes to the parameters of the calculation of the credit on duties refundable for losses

- The rate of the credit on duties refundable for losses will rise gradually, exactly at the same pace as the mining duties rate, reaching 16% January 1, 2012.
- At most half the exploration expenses incurred during a fiscal year will enable an eligible operator to claim a credit on duties refundable for losses.

The calculation method of an operator's annual profit, for a fiscal year, will be changed by making use of a "mine-by-mine" approach.

Replacement of the international financial centres regime with a refundable tax credit

More specifically, all the partial exemptions an IFC operator currently enjoys regarding income tax, the tax on capital and the employer contributions to the HSF as well as the deduction in calculating taxable income an IFC employee other than a foreign specialist can claim, will be replaced with a refundable tax credit for the IFC operator of up to \$20 000 per eligible employee on an annual basis. In addition, an IFC must henceforth have at least six eligible employees and be operated by an eligible corporation

Adjustments to the refundable tax credits for the production of multimedia titles to allow for convergence with digital animation films

Addition of a new eligible title

- Introduction of "eligible related title" which means a property produced by the corporation, other than an excluded multimedia title, including a significant volume of three of the following four types of information: text, sound, still images and animated images and related to a principal multimedia title;
- A principal multimedia title means a multimedia title that satisfies the following conditions:
 - it is produced by the corporation that produces the related title or by a corporation with which it is associated
 - it would constitute, for the corporation that produces the related title or for the corporation with which it is associated, as the case may be, an eligible multimedia title
 - the total amount of the labour expenditure of the corporation that produces the related title or the corporation with which it is associated, as the case may be, regarding the multimedia title, is equal to or greater than \$1 million.
- The period of 24 months will be extended to 36 months after the completion of its final version and eligible production work will include the activities relating to system architecture.

Improvements to the refundable tax credit for film dubbing

The rate of the tax credit for film dubbing will rise from 30% to 35% and the cap on the consideration paid for the execution of a film dubbing contract, currently 40.5%, will be raised to 45%. Consequently, the tax assistance allowed may reach 15.75% of such consideration.

Tax relief for non-residents occupying key positions in a foreign production filmed in Québec

New tax relief to allow individuals who sojourn in Québec and occupy a decision-making position on a foreign production, or a key position in the postproduction stage of such a production, as of the 2010 taxation year, not to be taxed on payments they receive for services supplied in Québec in conjunction with such productions.

Changes to the refundable tax credit for R&D salaries

Clinical trial

The tax legislation will be amended so that a research subject who participates in a clinical trial carried out by another person is deemed to carry out work, for the purposes of the refundable tax credit for R&D salaries and the indemnity, will be eligible even in a second subcontracting context.

To recognize the importance of a research subject's participation in a clinical trial, the tax legislation will be amended so that the income, for a taxation year, from indemnities is not taxable up to a limit of \$1,500 for such year.

Arm's length subcontracting

The refundable tax credit for R&D salaries will be streamlined in relation to the situation where work is done on behalf of a taxpayer by a corporation or a partnership with which it is at arm's length, so that the work done by a person who is not an employee of the corporation or the partnership, but is one of its shareholders or members, as the case may be, be also included for the purposes of the tax credit.

Clarification in relation to the tax credit for technology adaptation services and the tax credits for SR&ED

The tax legislation will be clarified so that an expenditure incurred by a taxpayer for a taxation year is not eligible for the purposes of the refundable tax credit for technology adaptation services for such year, if it is otherwise eligible for the purposes of one of the refundable tax credits for R&D.

Change applicable to all the refundable tax credits

An expenditure incurred by a taxpayer for a taxation year regarding which the taxpayer filed a prescribed form no later than twelve months after the filing deadline applicable to him for the year, can be reported by the taxpayer for such taxation year on a prescribed form, after such twelve-month period, for the purposes of another refundable tax credit the taxpayer claims and that seeks to replace the one initially claimed.

Refundable tax credit for the development of e-business

Adjustments will be made to the qualification criteria to better adapt them to transfers of activities and business start-up situations in Québec so a corporation may qualify as a qualified corporation only for a portion of a taxation year.

These adjustments will apply regarding salaries incurred by an eligible corporation and paid to eligible employees after March 13, 2008, and before January 1, 2016.

To reflect these changes, the claim for the tax credit must be made no later than 18 months after the day of the Budget Speech.

Increase in the capital cost allowance rate applicable to trucks and tractors designed for hauling freight

Capital cost allowance rate of 60% instead of 40% will be applicable to property consisting of a truck or a tractor designed for hauling freight where the gross vehicle weight rating exceeds 11,788 kilograms (truck or tractor must be new at the time of its acquisition by the taxpayer and be acquired after the day of the Budget Speech).

Additional deduction of 85% of the amount deducted in calculating its income for the year on account of capital cost allowance in respect of a truck or tractor designed for hauling freight and covered by the 60% capital cost allowance where such truck or tractor is fuelled by liquefied natural gas.

Extension of the refundable tax credit for the construction and major repair of public access roads and bridges in forest areas

This credit will be extended until March 31, 2013, and the rate will be 80% for expenses incurred in calendar year 2011, 70% for expenses incurred in calendar year 2012 and 60% for expenses incurred from January 1 to March 31, 2013.

Temporary increase in the rates applicable to two bases of the compensatory tax on financial institutions

The rates applicable will be raised for salaries paid:

- in the case of a bank, loan company, trust company or securities trading company, by 1.9 percentage points, to 3.9%;
- in the case of a savings and credit union, by 1.3 percentage points, to 3.8%;
- in the case of any other person, by 0.5 percentage point, to 1.5%.

The rates applicable will be raised for insurance premiums and amounts established regarding an insurance fund, by 0.2 percentage point, to 0.55%.

The rate increases will apply regarding taxation years ending after the day of the Budget Speech and beginning before April 1, 2014.

Personal Tax Measures

No tax increase for the individuals.

Introduction of a health contribution as of July 1, 2010

To help ensure the sustainability of the public health-care system, a health contribution will be introduced as of July 1, 2010. Only adults will have to pay the contribution. The amount of the health contribution will be \$25 per adult for 2010, \$100 per adult for 2011 and \$200 per adult as of 2012. The health contribution will be payable to the Minister of Revenue no later than the date on which individuals are required to pay income tax for a year, usually April 30.

Introduction of a solidarity tax credit

To better meet the needs of low- and middle-income households, the Quebec sales tax (QST), the property tax refund and the refundable tax credit for individuals living in a northern village will be grouped into a single refundable tax credit—the solidarity tax credit.

Child-care expenses

Increase in the frequency of advance payments of the tax credit for child-care expenses. Under the existing rules, the Minister of Revenue makes advance payments of these tax credits four times a year. Advance payments of these tax credits will all be made, as of 2011, on a monthly basis.

Quebec Sales Tax Measures Increase in the rate of the Quebec sales tax (QST)

Increase in the rate of the Quebec sales tax (QST) to 9.5% as of January 1, 2012

- The taxable supply of movable property or a service will be subject to the QST at a rate of 9.5%, if all of its consideration becomes due after December 31, 2011 and is not paid before January 1, 2012. In addition, the QST at the 9.5% rate will apply regarding any portion of the consideration of such supply that becomes due after December 31, 2011, and is not paid before January 1, 2012.
- The taxable supply of an immovable by way of sale will be subject to the QST at the 9.5% rate if it is made pursuant to a written agreement concluded after December 31, 2011 according to which the ownership and possession of the immovable are transferred to the recipient after such date.
- The taxable supply in respect of the construction, renovation, alteration or repair of an immovable or a ship or other marine vessel will be subject to the QST at the 9.5% rate if it is made pursuant to a written agreement concluded after December 31, 2011.

Rounded-off mathematical factors

Since the QST is calculated on a consideration that includes the goods and services tax (GST) at the 5% rate, the effective rate of the QST is currently 7.875% (8.925% as of 2011), while the combined effective rate of the GST and the QST is 12.875% (13.925% as of 2011). However, the QST system authorizes a registrant, in certain circumstances, to calculate the tax payable in respect of a supply it makes using mathematical factors rounded off to 7.87% or 12.87% (8.92% or 13.92% as of 2011). A registrant can use these rounded-off mathematical factors if the cash register it normally uses is not sophisticated enough for it to calculate the QST using the real rate of 7.5% (8.5% as of 2011) or mathematical factors with three decimal places, i.e. 7.875% or 12.875% (8.925% or 13.925% as of 2011). With the QST rate rising to 9.5% as

of January 1, 2012, these three-decimal mathematical factors will be 9.975% and 14.975%, with the result that the rounded-off mathematical factors that can be applied as of that date will be 9.97% and 14.97%.

Small businesses whose revenues from taxable supplies do not exceed \$215,000 (\$217,000 as of 2011) can use a quick method to determine the net tax payable for a reporting period. To reflect the setting of the QST rate at 9.5%, the prescribed rate used for this quick accounting method will be raised to 3.4% for vendors of corporeal movable properties and to 6.6% for other businesses. The new prescribed rates for quick accounting methods as well as the new revenue amount of \$219,000 for small businesses will apply to any reporting period starting after December 31, 2011.

Gradual rise in the fuel tax

The regular rates of the fuel tax of 15.2 cents per litre of gasoline and 16.2 cents per litre of diesel fuel will be raised by 1 cent per litre per year until fiscal year 2013-2014. More specifically, these rises will apply on April 1, of each year, from 2010 to 2013.

Other Measures

Tax evasion schemes

Amendments will be made to the Act respecting the *ministère du Revenu* regarding major tax offences to raise the maximum prison sentence a court may impose for such offences to five years less one day.

Water royalty

The government has decided to introduce a water royalty as of January 1, 2011. The royalty will target businesses in the industrial and commercial sectors drawing 75 m³ of water or more per day either directly or from water mains. The royalty will not apply to the residential, institutional or farm sectors. The royalty will apply two rates that depend on the use of the resource.

Accordingly, the rate will be \$0.0025/m³ for businesses using water in their production processes and \$0.07/m³ for those using water as a component of their products.

Measures relating to the March 4, 2010 Federal Budget and other regulations

Québec's tax legislation and regulations will be amended to incorporate following measures announced on March 4, 2010 Federal budget.

- the transfer to a registered disability savings plan of an amount received from certain registered savings plans for retirement, following the death of an individual who was the participant or the annuitant, as the case may be, by a child or a grandchild who was financially dependent on the individual immediately prior to his death subject to the incorporation of these measures by reference to the federal tax legislation;
- the tax treatment of amounts paid, directly or indirectly, by a provincial government into a registered education savings plan or a registered disability savings plan
- the disbursement quota that registered charities must satisfy.
- the addition of a requirement to be entitled to the deduction for employee stock options;
- the withdrawal of the election to defer taxation of a benefit arising from the exercise of a stock option granted to an employee of a corporation, other than a Canadian-controlled private corporation (CCPC), or a mutual fund trust and the obligation to withhold tax at source;
- the temporary relief allowed individuals who elected to defer taxation of a benefit arising from the exercise of a stock option granted to an employee of a corporation, other than a CCPC, or a mutual fund trust subject to the specific features as rate of the deduction, inclusion of capital gain and a special tax. For greater clarity, an individual may, for the purposes of Quebec's tax system, make an election separate from the one he made for the purposes of the federal tax system concerning preferential tax treatment.
- the non-taxation of part of certain benefits received under U.S. social security legislation;
- the changes made to the definition of "principal-business corporation" applicable as part of the flow-through share system;
- the changes made to the acquisition of control rules upon the conversion of a specified investment flow-through entity to a corporation;
- the changes made to the definition of "taxable Canadian property" and the correlative adjustments;
- the changes made to the relief mechanism applicable to foreign tax paid;

- the changes concerning the accelerated capital cost allowance on account of clean energy generation applicable to heat recovery equipment and distribution equipment of a district energy system;
- the changes concerning the capital cost allowance applicable to satellite and cable set-top boxes;
- the changes to specified leasing property rules.

In addition, although it requires no legislative or regulatory amendment, the measure relating to the application for a refund of an overpayment in certain circumstances will also be retained for the purposes of Quebec's tax system.

Quebec's tax legislation and regulations will be amended to allow Quebec's Minister of Revenue, where an amount is allocated to a sum that is or may become payable by a person pursuant to a fiscal law within the meaning of the *Act respecting the ministère du Revenu*, to reallocate, at such person's request, all or part of such amount to another sum that is or may become payable by such person pursuant to the same fiscal law or another fiscal law.

For More Information

For more information on how the budget changes affect you or your business, please contact your PricewaterhouseCoopers tax adviser or any of the individuals listed below.

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