

Tax Memo

2009 Quebec Budget

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Introduction

The recession has now hit the Québec economy and the government intends to continue to fully play its role in order to limit the adverse effects of the crisis and facilitate recovery. Below are the highlights of the 2009-2010 Budget.

Personal Tax Measures

Improvements to the refundable tax credit for child care expenses

Changes to the rate table to narrow the gap between the net cost of private and reduced-contribution childcare services

Family income (\$)		Tax credit rate (%)		Family income (\$)		Tax credit rate (%)			
Over	But not over	Before Budget	After Budget	Over	But not over	Before Budget	After Budget	Over	But not over
—	31,520	75	75	—	93,465	94,645	42	57	15
31,520	32,685	74	74	—	94,645	95,830	40	57	17
32,685	33,855	73	73	—	95,830	97,010	38	57	19
33,855	35,015	72	72	—	97,010	98,195	36	57	21
35,015	36,185	71	71	—	98,195	99,375	34	57	23
36,185	37,345	70	70	—	99,375	100,560	32	57	25
37,345	38,525	69	69	—	100,560	101,740	30	57	27
38,525	39,690	68	68	—	101,740	102,925	28	57	29
39,690	40,850	67	67	—	102,925	124,000 ²	26	57	31
40,850	42,015	66	66	—	124,000 ³	125,175	26	54	28
42,015	43,190	65	65	—	125,175	126,350	26	52	26
43,190	44,355	64	64	—	126,350	127,525	26	50	24
44,355	45,525	63	63	—	127,525	128,700	26	48	22
45,525	46,685	62	62	—	128,700	129,875	26	46	20
46,685	47,860	61	61	—	129,875	131,050	26	44	18
47,860 ¹	84,040	60	60	—	131,050	132,225	26	42	16
84,040	85,210	58	60	2	132,225	133,400	26	40	14
85,210	86,370 ¹	56	60	4	133,400	134,575	26	38	12
86,370 ²	87,555	54	57	3	134,575	135,750	26	36	10
87,555	88,735	52	57	5	135,750	136,925	26	34	8
88,735	89,920	50	57	7	136,925	138,100	26	32	6
89,920	91,100	48	57	9	138,100	139,275	26	30	4
91,100	92,285	46	57	11	139,275	140,450	26	28	2
92,285	93,465	44	57	13	140,450	And over	26	26	—

1 The 16th family income bracket of the new table will include all income over \$47,860 but not over \$86,370.

2 The 17th family income bracket of the new table will include all income over \$86,370 but not over \$124,000.

3 Bottom of the 18th family income bracket of the new table.

Advance payments of the tax credit

A new table for determining advance payments must be used. The new table will apply to 2009 and subsequent years.

Increase to \$9,000 in the limit on child care expenses for a child under 7 years of age

The limit on child care expenses paid for a child who is under 7 at the end of a given year (other than a child with a severe and prolonged impairment in mental or physical functions) will be raised from \$7,000 to \$9,000 as of the 2009 taxation year.

The maximum allowable amount of \$175 a week applicable to amounts paid for a child who attends a boarding school or camp will remain unchanged.

Improvement of the tax treatment of child care expenses paid during parental leave

The tax legislation will be amended to provide that, as of the 2009 taxation year, an individual's child care expenses will include the expenses incurred for child care services throughout the period during which the individual or the individual's eligible spouse for the year received benefits under the Québec Parental Insurance Plan or birth- or adoption-related benefits under the federal Employment Insurance plan or a plan established by another province.

Recognition of the Youth Alternative Program for the application of the work premium supplement

Changes will be made to certain eligibility conditions of the work premium supplement so as to recognize the beneficiaries of the Solidarité jeunesse program and the Youth Alternative Program.

These changes will apply to individuals who give up last resort financial assistance or the Youth Alternative Program after March 31, 2009.

Streamlining of the Québec Education Savings Incentive (QESI)

Rules concerning RESP beneficiaries 16 or 17 years of age

To simplify the work of RESP trustees, the minimum contribution requirements regarding children 16 or 17 years of age at the end of a given year will be replaced, with regard to all contributions paid after December 31, 2008, by a requirement that a Canada Education Savings Grant be paid for the year, respecting the trust governed by the RESP of which the child is the beneficiary, regarding a contribution made on behalf of the child during the year.

Alienation of the Québec incentive further to the transfer of all property from one RESP to another RESP

An exception to the principle concerning the inalienability of amounts owing by the government in respect of a fiscal law will be introduced to facilitate the transfer of all the property in an RESP to another RESP.

This measure will apply to transfers made after March 19, 2009.

Consequences of late participation by certain RESP providers

The government intends to implement, for 2011, measures to facilitate the transfer of property from a non-participating RESP held by a trust resident in Québec to a participating RESP, so that the QESI may be granted for contributions paid after February 20, 2007 and before January 1, 2011 to a non-participating plan. The details of these measures will be announced at a later date.

Corporate Tax Measures

Introduction of a ten-year income tax holiday for a new corporation dedicated to the commercialization of intellectual property

A ten-year income tax holiday is being introduced, applicable to new corporations dedicated to the commercialization of intellectual property developed in Québec universities and Québec public research centres.

Eligible corporation

The expression "eligible corporation" means a corporation that, for the taxation year and each prior taxation year, satisfies certain conditions, including:

- it was incorporated in Canada after March 19, 2009 and before April 1, 2014;
- it must earn all or almost all of its income, for the year, from one or more active businesses that are eligible commercialization businesses;
- it did not carry on all or part of a business previously carried on by another entity;
- it claimed all the deductions, in particular the discretionary deductions, to which it was entitled in calculating its income and its taxable income for the year, at least up to what is required for its taxable income to be equal to zero, if applicable;
- it was not the beneficiary of a trust.

Eligible commercialization business

The expression "eligible commercialization business" of a corporation means a business regarding which the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE) issues a certificate stipulating that, in its view, the only purposes of the business are, as the case may be:

- making and selling goods more than 50% of whose value stems from eligible intellectual property;

- making and selling goods of which an essential component is an eligible intellectual property;
- the licensing of computer programs that are eligible intellectual properties.

The expression “eligible intellectual property” of a corporation means property that, in the view of the MDEIE, satisfies certain conditions, including:

- it was developed in the course of employment or academic study at an eligible institute by one or more individuals each of whom is an inventor for purposes of the Patent Act (Canada), or an author for purposes of the Copyright Act (Canada), and its development does not result from a research contract carried out on behalf of another person or other entity;
- nobody had ownership of it in any way whatsoever;
- it was disclosed to the eligible institute.

Period of validity of the certificate of the eligible commercialization business

The certificate of the eligible commercialization business will be valid for a maximum of three years, and must be renewed when it expires.

Income tax holiday

An eligible corporation that has a certificate from the MDEIE will be able to claim a tax holiday on the income from an eligible commercialization business for a period of ten years starting the day of its incorporation.

Introduction of a five-year royalty holiday for new natural gas wells

A five-year royalty holiday of up to \$800,000 per well will be granted for any well put into production after March 19, 2009 and before January 1, 2011.

Extension to the forest and mining sectors of the refundable tax credit for manpower training in the manufacturing sector

The tax legislation will be amended to stipulate that an activity eligible for the tax credit for manpower training also designates an activity relating to the forest or mining sector.

All the other application details of the tax credit for manpower training in the manufacturing sector will apply to the refundable tax credit for manpower training in the manufacturing, forest and mining sectors.

These amendments will apply regarding an eligible training expenditure incurred after March 19, 2009 and before January 1, 2012. In addition, the eligible training expenditure must relate to eligible training beginning after March 19, 2009 and before January 1, 2012.

Improvements to the refundable tax credit for the production of shows

The 29.1667% rate of the tax credit for the production of shows will rise to 35% and the limit on production costs will increase from 45% to 50%. However, the \$750,000 cap will be maintained.

These changes will apply in relation to an eligibility period of a show that begins after March 19, 2009.

Improvements to and streamlining of the refundable tax credit for the production of sound recordings

The 29.1667% rate of the tax credit for the production of sound recordings will rise to 35% and the limit on production costs will increase from 45% to 50%.

Moreover, the \$43,750 and \$21,875 caps will be eliminated.

These changes will apply to a sound recording, a digital audio-visual recording or a clip for which an application for an advance ruling, or a final certification application if no application for an advance ruling has been filed, is filed with SODEC after March 19, 2009.

Moreover, the legislation will be amended to restrict application, for a digital audio-visual recording, to a corporation that applies for an eligibility certificate in relation to a recording and to a corporation associated with it according to the rules stipulated in the *Taxation Act*.

Adjustments to the refundable tax credits for film dubbing and book publishing so they no longer contain so many decimals

Refundable tax credit for film dubbing

The 29.1667% rate of the tax credit for film dubbing will rise to 30%.

This change will apply to a production for which a final certification application is filed with SODEC after March 19, 2009.

Refundable tax credit for book publishing

The 26.25% rate applicable to labour expenditures attributable to printing costs will rise to 27%.

This change will apply to a book or a book that is part of a group of books, regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling has been filed, is filed with SODEC after March 19, 2009.

Parameters of the refundable tax credits in the cultural field before changes

	Tax credit rate (%)			Cap on labour expenditures (%)			Cap (\$)		
	Labour expenditures	Preparation Costs	Printing Costs	Production Costs	Preparation Costs	Printing Costs	General	Sound and digital audio-visual recordings	Clips
Film dubbing	29.1667	n. a.	n. a.	40.5 ¹	n. a.	n. a.	n. a.	n. a.	n. a.
Production of shows	29.1667	n. a.	n. a.	45	n. a.	n. a.	750,000	n. a.	n. a.
Production of sound recordings	29.1667	n. a.	n. a.	45	n. a.	n. a.	n. a.	43,750	21,875
Book publishing	n. a.	35	26.25	n. a.	50	33 ⅓	437,500	n. a.	n. a.

¹ The cap on labour expenditures is calculated on the basis of the consideration paid to the eligible corporation for carrying out the film dubbing contract.

Parameters of the refundable tax credits in the cultural field after changes

	Tax credit rate (%)			Cap on labour expenditures (%)			Cap (\$)		
	Labour expenditures	Preparation Costs	Printing Costs	Production Costs	Preparation Costs	Printing Costs	General	Sound and digital audio-visual recordings	Clips
Film dubbing	30	n. a.	n. a.	40.5 ¹	n. a.	n. a.	n. a.	n. a.	n. a.
Production of shows	35	n. a.	n. a.	50	n. a.	n. a.	750,000	n. a.	n. a.
Production of sound recordings	35	n. a.	n. a.	50	n. a.	n. a.	n. a.	n. a.	n. a.
Book publishing	n. a.	35	27	n. a.	50	33 ⅓	437,500	n. a.	n. a.

¹ The cap on labour expenditures is calculated on the basis of the consideration paid to the eligible corporation for carrying out the film dubbing contract.

Simplification of SODEC's certification procedure for obtaining the refundable tax credit for film production services

The current procedure with SODEC will be replaced by a certification mechanism consisting of an approval certificate and an advance ruling. In addition, the final certification stage will be eliminated.

These changes will apply to a certification application filed with SODEC after March 19, 2009.

Clarification to the improvement relating to certain Québec film or television productions that do not receive any financial assistance granted by a public organization

A clarification will be made, for purposes of the improvement in relation to certain productions not covered by financial assistance granted by a public organization, so that a miniseries, or a series of which each episode is a fiction production lasting a minimum of 75 minutes, is an eligible production for purposes of this improvement.

This change will apply to eligible labour expenditures incurred as of January 1, 2009.

Changes to the refundable tax credit for the development of e-business

Changes to the criterion relating to the proportion of activities in the information technology sector

The concept of activities in the information technology sector will be broadened to include the activities encompassed by an additional six NAICS codes.

Accordingly, for purposes of this criterion, activities in the information technology sector mean activities included in the following NAICS codes:

- 334110 – Computer and Peripheral Equipment Manufacturing;
- 334220 – Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing;
- 417310 – Computer, Computer Peripheral and Pre-Packaged Software Wholesaler-Distributors;
- 443120 – Computer and Software Stores;
- 511210 – Software Publishers;
- 51821 – Data Processing, Hosting and Related Services;
- 541510 – Computer Systems Design and Related Services.

A corporation will be considered as having carried out at least 75% of its activities in the information technology sector, according to this broader definition, where the gross income from such activities accounts for at least 75% of its total gross income.

However, an additional condition must be satisfied, i.e. that at least 50% of the corporation's gross income be earned from activities included under NAICS code 511210 (Software Publishers), activities included under NAICS code 541510 (Computer Systems Design and Related Services) or a combination of these activities.

Correlative change to the criterion relating to services supplied

The concept of activities in the information technology sector will be broadened, exclusively for purposes of the criterion relating to the proportion of activities in the information technology sector, to include the activities encompassed by the additional six NAICS codes. Consequently, for purposes of the criterion relating to services supplied, only the activities included under NAICS code 541510 (Computer Systems Design and Related Services) will continue to be considered.

Application date

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

Changes to the refundable tax credit for design

The definition of an eligible design activity, for purposes of the refundable tax credit for design, will be changed so that it no longer refers to the industrial sector or to the fashion sector, but rather to the design of goods made on an industrial basis.

However, the design of goods made on an industrial basis does not include:

- design of software or a website;
- design of a good according to characteristics satisfying the specific needs of an individual who does not carry on a business;
- management design;
- graphic design.

The criterion regarding production of goods in Québec will be withdrawn.

These changes will apply regarding design work for goods made on an industrial basis carried out after March 31, 2009.

Application to the Mining Duties Act of the rules relating to a return in a functional currency

The *Mining Duties Act* will be amended to introduce rules to allow the reporting of profit or loss in a functional currency. These rules will be the same, with the necessary adaptations, as those that will be introduced into the *Taxation Act*.

This possibility of filing a profit and loss return in a functional currency will apply to fiscal years for which the filing deadline is after March 19, 2009.

Other Measures

Increase in the rate of the Québec sales tax as of January 1, 2011

As of January 1, 2011, the rate of the QST will rise from 7.5% to 8.5%.

Clarifications relating to the application of the increase in the QST rate

The increase in the QST rate to 8.5% will be applied regarding taxable supplies in relation to which this tax will become payable as of January 1, 2011.

Movable property and service

The taxable supply of movable property or a service will be subject to the QST at a rate of 8.5%, if all of its consideration becomes due after December 31, 2010 and is not paid before January 1, 2011. In addition, the QST at the 8.5% rate will apply regarding any portion of the consideration of such supply that becomes due after December 31, 2010, and is not paid before January 1, 2011.

Rounded-off mathematical factors

With the QST rate rising to 8.5% as of January 1, 2011, the three-decimal mathematical factors will be 8.925% (QST) and 13.925% (GST/QST), with the result that the mathematical factors rounded off to 7.87% and 12.87% will be replaced by factors rounded off to 8.92% and 13.92% respectively as of that date.

Taxable benefit related to the cost of operating an automobile

The 4.7% rate will be raised to 5.4% as of taxation year 2011.

Quick accounting methods

Quick method for small businesses

The prescribed rate will be raised to 3% (from 2.7%) for vendors of corporeal movable properties and to 6% (from 5.3%) for other businesses.

Quick method for certain public service bodies

The prescribed rate for municipalities will rise to 5.2% (from 4.6%) and the prescribed rate will rise to 6.6% (from 5.9%) for other bodies.

Application of the new prescribed rates

The new prescribed rates for quick accounting methods will apply to any reporting period starting after December 31, 2010.

Increase in the refundable tax credit for the QST

For taxation year 2011, the basic amount and the amount for a spouse will be adjusted upward by \$75.

The amount for a person living alone will be increased by \$50.

Major improvements to the SME Growth Stock Plan, which becomes the stock savings plan II

The name "SME Stock Growth Plan" will be replaced by "stock savings plan II" as of March 20, 2009.

Extension of the plan for five years

The plan will be extended for five years, i.e. until December 31, 2014.

Tax benefit increased to 150% for two years

The tax legislation will be amended so that the adjusted cost of a qualifying share or a valid share, for an individual or an investment fund, is raised from 100% to 150% of the cost of such share.

This increase will be temporary. It will apply regarding qualifying shares and valid shares acquired after March 19, 2009 and before January 1, 2011 and included in the plan no later than January 31 following the year of their acquisition.

Asset limit for an issuing corporation increased to \$200 million

The tax legislation will be amended to raise the asset limit of a qualified issuing corporation from \$100 million to \$200 million.

This change will apply regarding a public offering of shares for which the receipt for the final prospectus, or the filing exemption, as the case may be, is granted after March 19, 2009.

Minimum holding period reduced by one year

The tax legislation will be amended so that an investor satisfies the minimum holding period requirement where he holds in his plan, on December 31 of the year of acquisition as well as on December 31 of the two subsequent years, qualifying shares, valid shares or qualifying securities for which the total adjusted cost is at least equivalent to the amount of deductions claimed under the plan over the preceding two taxation years.

This change will apply as of calendar year 2009.

Temporary increase in the tax credit for the acquisition of shares issued by Fondation

The rate of the tax credit for the acquisition of shares issued by Fondation will be temporarily raised to 25% (from 15%), for any share or fraction of a share acquired after May 31, 2009, and no later than the ending date of the fiscal year at the end of which Fondation first reaches a capitalization of at least \$1.25 billion.

Introduction of a refundable tax credit for the acquisition or lease of a new green vehicle

A refundable tax credit will be granted to a person or enterprise who acquires or leases, between now and December 31, 2015, a recognized green vehicle. This tax credit will be adjusted depending on the vehicle's environmental performance.

Refundable tax credit for the acquisition or lease of a new green vehicle

(Dollars)

	2009	2010	2011	2012	2013	2014	2015
Gasoline consumption from 3 to 5.27 l/100 km	2,000	2,000	1,500	1,000	500	0	0
Diesel consumption from 2.58 to 4.54 l/100 km	— 1	2,000	1,500	1,000	500	0	0
Gasoline consumption from 0.01 to 2.99 l/100 km	— 2	3,000	3,000	2,250	1,500	750	0
Diesel consumption from 0.01 to 2.57 l/100 km	— 2	3,000	3,000	2,250	1,500	750	0
Low-speed vehicle (LSV) using no fuel	4,000	4,000	4,000	4,000	3,000	2,000	1,000
Vehicle, other than an LSV, using no fuel	— 3	— 3	8,000	8,000	6,000	4,000	2,000

- 1 It is not expected that a vehicle in this category will be on the Québec market during the year. However, in the event such a vehicle is acquired or leased in 2009, an amount of \$2,000 will be allowed for the purposes of calculating the tax credit.
- 2 It is not expected that a vehicle in this category will be on the Québec market during the year. However, in the event such a vehicle is acquired or leased in 2009, an amount of \$3,000 will be allowed for the purposes of calculating the tax credit.
- 3 It is not expected that a vehicle in this category will be on the Québec market during the year. However, in the event such a vehicle is acquired or leased in 2009 or 2010, an amount of \$8,000 will be allowed for the purposes of calculating the tax credit.

Where a recognized green vehicle is leased on a long-term basis during a calendar year from 2009 to 2015, the amount of the tax credit an eligible person may receive for such vehicle will be calculated by applying a rate, that depends on the length of the continuous lease period, to the amount that would otherwise have been allowed had the vehicle been acquired at the same time.

Rates applicable for the purposes of calculating the tax credit depending on the length of the long-term lease contract (Per cent)

Continuous lease			Continuous lease		
at least	and less than	Applicable rate	at least	and less than	Applicable rate
12 months	24 months	25	48 months	60 months	70
24 months	36 months	40	60 months	72 months	80
36 months	48 months	55	72 months	—	85

To receive the refundable tax credit for the acquisition or lease of a new green vehicle for a given taxation year, an eligible person must enclose a prescribed form with his tax return for the year.

Recovery of certain administrative costs by Revenu Québec

Expenses for taking charge of a file

The tax legislation will be amended so that a fee of \$93 will be charged to a debtor who has not settled his tax debt within the allowable limits and whose file is initially acted on by a tax collection official.

Fees for registration and cancellation of a legal hypothec

The tax legislation will be amended to charge fees in this regard to the tax debtor. In the case of a registration, the fees will be \$75 for a movable hypothec and \$185 for an immovable hypothec. Fees for cancellation will be \$20

for a movable hypothec and \$130 for an immovable hypothec.

Creation of a \$500-million emergency fund for the recovery of businesses

Targeted corporations will be medium and large private and public enterprises with a head office or significant activities in Québec. All sectors of economic activity will be eligible.

The details regarding this fund will be announced shortly by the Minister of Economic Development, Innovation and Export Trade and the presidents of the SGF and FSTQ.

\$60-million increase in the envelope of the FIER-Régions

The government is announcing a \$60 million increase in the envelope allocated to the FIER-Régions.

\$825 million for the financing of venture capital funds

To ensure adequate financing of emerging technology firms in Québec, the government is announcing the creation of a fund with initial capitalization of \$700 million. The fund's mission will be to finance sector-based venture capital funds.

Moreover, the fund will seek to raise \$125 million from private institutional investors to attain the total capitalization target of \$825 million.

Federal Legislation and Regulations

Measures relating to the January 27, 2009 federal budget

Measures relating to the *Income Tax Act*

Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to:

1. the deduction for loss of value of investments in a registered retirement savings plan or a registered retirement income fund after death;
2. the increase in the small business limit, subject to this clarification:

The increase in the small business limit from \$400,000 to \$500,000 will apply as of March 20, 2009. However, where the taxation year of a corporation includes March 19, 2009, the increase in the business limit applies in proportion to the number of days of such taxation year that follow that day;

3. the time at which the acquisition of control of a corporation takes place to determine whether it is a small business corporation or a Canadian-controlled private corporation (CCPC);
4. the amendments pertaining to the capital cost allowance applicable to certain assets. For greater clarity, the assets covered by the change relating to machines and to manufacturing and processing equipment can constitute eligible assets for purposes of the investment tax credit. The same is true of eligible computers and system software (i.e. those used in manufacturing and processing) covered by the improvement;
5. the withdrawal of the restrictions applicable to the deductibility of certain interest.

Measures not retained

Some measures have not been retained because they do not correspond to features of Québec's tax system. This is the case for the First-Time Home Buyer's Tax Credit, the correlative adjustments to the change to the amount of the expenditure limit concerning the investment tax credit and the adjustments concerning the instalment payments of small corporations.

Other measures have not been retained because Québec's tax system is satisfactory in their regard. These measures concern, among others:

- the increase in the age tax credit;
- the introduction of the Home Renovation Tax Credit.

Announcement at a later date

The ministère des Finances du Québec will announce its position concerning the measures relating to the mandatory filing of returns by electronic transmission and the penalties for not filing a corporate tax return in the correct format and for late filing of information returns or not filing such returns in the correct format at a later date.

Measures relating to the *Excise Tax Act*

Changes will be made to the Québec sales tax system to incorporate, with adaptations on the basis of its general principles and subject to the specificities of Québec, the federal measures concerning the simplification of the GST/HST for the direct selling industry.

Follow-up to the Notice of Ways and Means Motion of November 28, 2008 and to the Department of Finance Canada news release of November 10, 2008

Québec's tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the following federal rules:

- those relating to the conversion of existing specified investment flow-through trusts into taxable Canadian corporations;
- those to implement changes to the rules of the *Income Tax Act* concerning reporting of income in a functional currency.

However, these measures will only be adopted following the assent given to any federal legislation or adoption of any federal regulation giving effect to them, taking into account the technical changes that may be made to them before such assent or adoption. Lastly, these measures will apply on the same dates as for purposes of the federal tax system.

For More Information

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