BULLETIN D'INFORMATION

2002-13
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Subject: Clarifications concerning gifts made to political education organizations whose mission is to promote the sovereignty of Québec, designation of a new biotechnology site in Saint-Hyacinthe and other fiscal measures

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This information bulletin details the new category of organizations that will be authorized to issue receipts for tax purposes regarding gifts they receive to enable them to promote, through educational means, the sovereignty of Québec or Canadian unity.

This information bulletin also sets out the terms and conditions of the broadening of the territorial scope of fiscal measures relating to biotechnology development in certain designated sites to the Cité de la biotechnologie agroalimentaire, vétérinaire et agroenvironnementale de Saint-Hyacinthe.

In addition, it describes the application details of many adjustments to existing fiscal measures concerning personal and corporate income tax. It also sets out the exemptions that will be allowed for the purposes of setting the premium payable, for 2002, to the Québec prescription drug insurance plan.

Lastly, it describes the position of the ministère des Finances, de l'Économie et de la Recherche regarding measures made public in news release 2002-084 of the Department of Finance Canada issued on October 11, 2002.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at (418) 691-2236.

Finances, Économie
et Recherche
Québec

The French and English versions of this bulletin are available on the website of the ministère des Finances, de l'Économie et de la Recherche at www.mfer.gouv.qc.ca

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Bulletin d'information 2002-13

Clarifications concerning gifts made to political education organizations whose mission is to promote the sovereignty of Québec, designation of a new biotechnology site in Saint-Hyacinthe and other fiscal measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Gifts to certain political education organizations

The existing tax system authorizes many entities to issue receipts for tax purposes for gifts they receive from individuals or corporations. These receipts enable the donors to obtain tax benefits, consisting mainly of a non-refundable tax credit in the case of individuals and a deduction in the calculation of taxable income in the case of corporations.

Some entities are authorized to issue receipts for tax purposes simply because they are public entities. These include, in particular, the Québec government and municipalities. For others, authorization to issue such receipts must be granted on an individual basis. Such is the case, for instance, for certain arts organizations, certain amateur athletic associations and charities.

While, for the purposes of the tax credit for donations, the tax legislation groups, under the expression "charitable gifts", all donations, other than cultural gifts and donations of property with undeniable ecological value, made to donees authorized to issue receipts for tax purposes, only some of these donees are required to pursue charitable purposes. In practice, most entities pursuing charitable purposes are found in the category of registered charities.

Currently, organizations whose mission is to promote Québec sovereignty cannot, in spite of their educational role, be authorized to issue receipts for tax purposes. These organizations cannot be registered as a charity because the political activities they undertake do not qualify, according to the courts, as charitable activities. Furthermore, these organizations do not have all the attributes needed to be included in the other categories of donees recognized for tax purposes.

However, certain organizations registered as charities succeed, in this guise, in promoting Canadian unity through activities with a "federalist" flavour.

To correct this unfair situation, various measures will be implemented to ensure that the rules are clear and the same for everyone.

❑ Impossibility of issuing receipts for charitable donations

As of January 1, 2003, charities whose mission is to promote Canadian unity, such as the *The Council for Canadian Unity*, will no longer be authorized to issue receipts for donations marked as receipts for Québec income tax on the basis of their status as a registered charity.

More specifically, for the purposes of the legislative provisions relating to the deduction or the tax credit for donations, as the case may be, the registered charities category will no longer include such organizations whose mission is to promote Canadian unity.

❑ Recognition of certain political education organizations

A new category of organizations will be authorized to issue receipts for donations marked receipts for Québec income tax purposes.

This new category will include non-profit organizations recognized by the Minister of Revenue, on the recommendation of the Minister responsible for the Reform of Democratic Institutions, whose mission, through educational means, is to promote the sovereignty of Québec or Canadian unity.

For greater clarity, no political party or body of such party acting on the municipal, provincial or federal scene may be recognized as a political education organization.

In addition, no organization whose mission is to promote Canadian unity may be recognized as long as the federal government does not grant, to donations made to organizations whose mission is to promote Québec sovereignty, tax advantages comparable to those it currently grants to donations made to registered charities or other recognized donees.

Recognition of an organization as a political education organization will take effect on whichever of the following dates occurs latest:

— the date of publication of this information bulletin;

— January 1 of the year during which recognition is granted;

— the date on which the organization is created.

❏ **Calculation of the deduction or the tax credit for donations**

Donations to a political education organization whose recognition is in effect at the time of the donation, hereafter called "recognized political education organization", will give rise to a tax benefit consisting of a non-refundable tax credit in the case of individuals and a deduction in the calculation of taxable income in the case of corporations.

More specifically, the legislation will be amended to stipulate that, for the purposes of calculating the deduction and the tax credit for donations, the fair market value of donations made by a taxpayer, during a given taxation year or during one of the preceding five taxation years, to recognized political education organizations will be taken into consideration to determine the total amount of donations, other than cultural gifts and donations of property with undeniable ecological value, of the taxpayer for the year.

In particular, this change will submit donations made to a recognized political education organization to the rule designed to limit, to a certain level of income of the donor, the amount of all donations, other than cultural gifts and donations of property with undeniable ecological value, that may be taken into consideration in calculating the deduction or the tax credit for donations.

Briefly, this rule stipulates that this amount may not exceed 75% of the donor’s income for the year during which a donation is made, except if the donor died during the year or in the preceding year, in which case the limit is raised to 100% of his income. The 75% limit may also be increased to 100% when the object of the donation is linked to the donee’s mission.

The portion of donations made in a year that cannot, because of the limit applicable according to income, be taken into consideration in the calculation of the deduction or tax credit for donations may be carried forward for five years, subject to the application, for each of the years carried forward, of the rule limiting the amount of eligible donations to a certain level of income of the donor.

In addition, for greater clarity, when a taxpayer makes a donation of a work of art, as this expression is understood in the tax legislation, to a recognized political education organization, other than such an organization that acquires the work of art in the course of its primary mission, the taxpayer shall be deemed not to have donated such work of art unless the donee alienates it no later than December 31 of the fifth calendar year following the one including the time of the donation.

❑ Rules relating to expenditures of recognized organizations

Recognized political education organizations shall be required to spend, in a given taxation year, for educational activities whose effect is to promote the sovereignty of Québec or Canadian unity, as the case may be, that they carry out themselves or donations to a recognized organization created for purposes similar to the ones for which they themselves have been recognized, an amount at least equal to their disbursement quota for the year.

The expression "disbursement quota" of a recognized political education organization for a taxation year means an amount equal to 80% of all the amounts each of which represents:

— either a donation for which the organization issued, in its preceding taxation year, a receipt for tax purposes, other than one of the following donations:

  – a gift of capital received by way of bequest or inheritance;

  – a gift received and which is subject to a trust or direction to the effect that the property given, or property substituted for it, must be held by the organization for at least 10 years;

— or a donation the organization received in a prior taxation year and for which it issued a receipt for tax purposes, provided the amount of such donation was both spent during the year and was excluded from the disbursement quota of the organization because of any one of the above-mentioned exclusions.

However, rules similar to the ones applicable to registered charities will be stipulated to enable a recognized political education organization to accumulate property for certain specific purposes. In addition, the Minister of Revenue will have the authority to ease the spending obligation to which such organizations are subject.

In addition, to enable the ministère du Revenu to monitor compliance with the spending obligation, recognized political education organizations will be required to file an annual information return with the ministère du Revenu, within six months following the end of their taxation year.

In the event of non-compliance with the spending obligation, recognition as a political education organization may be revoked. Furthermore, a recognized political education organization that, for a given taxation year, fails to satisfy its spending obligation must, within the six months following the end of such year, pay a tax to the Minister of Revenue equal to the additional amount it should have spent in such year to satisfy such obligation.

1.2 Tax treatment of income support payments similar to payments of financial assistance of last resort

Under existing tax legislation, an individual must include in the calculation of his income, amounts he received as social assistance payment on a means, needs or income test.

However, some social assistance payments are not so included. Such is the case, in particular, of the portion of payments of financial assistance of last resort received under the *Act respecting income support, employment assistance and social solidarity* relating to an amount of an adjustment for dependent children or a special benefit.

Since taxation year 1998, social assistance payments included in the calculation of a recipient's income no longer give rise to a corresponding deduction in the calculation of taxable income, if they constitute a payment of financial assistance of last resort received under the *Act respecting income support, employment assistance and social solidarity* or a similar payment made under a law of a province.

However, recipients for whom financial assistance of last resort is the only source of income for a taxation year do not have to pay income tax for such year, in view of the harmonization between tax thresholds and transfer programs.

In addition, under specific income support programs, the government may make payments of assistance that are very similar to the payments of financial assistance of last resort stipulated in the *Act respecting income support, employment assistance and social solidarity*.

Currently, despite the similarity between these payments, they do not necessarily receive the same tax treatment. Some payments must be included in full in calculating the recipient's income, even if a portion of such payments relates, for instance, to an amount of an adjustment for dependent children. Also, simply because of the fact that they are paid other than under a law, some payments lead to an automatic reduction in recipient's taxable income.

Since this difference in treatment can be a source of unfairness among taxpayers, amendments will be made to the tax legislation so that identical treatment is applied to government payments of financial assistance, whether they constitute assistance of last resort under the *Act respecting income support, employment assistance and social solidarity* or similar assistance granted under specific income support programs.

❑ Standardization of the tax treatment applicable

The tax legislation will be amended to stipulate that, as of taxation year 2002, an individual is not required to include in the calculation of his income for a given taxation year, the portion of any payment he received during the year either as financial assistance of last resort under the *Act respecting income support, employment assistance and social solidarity* or similar government assistance, relating to any of the following amounts:

— an amount intended to cover the needs of children, whether minor or of full age;

— an amount received as a special benefit designed to cover certain specific needs;

— an amount attributable to child care expenses;

— an amount of an adjustment to take the place of an expected payment of a tax credit for the sales tax.

In addition, the tax legislation will be amended to stipulate that, as of taxation year 2003, an individual may not deduct, in calculating his taxable income for a given taxation year, any amount he has included in calculating his income for the year, not only as financial assistance of last resort stipulated under the *Act respecting income support, employment assistance and social solidarity,* but also as similar government assistance, regardless of whether or not such government assistance was provided under a law.

As a corollary, the tax legislation will be amended so that such amount must also be included in calculating the total income of an individual for the purposes of the deductions relating to strategic investments, i.e. the deduction for a stock savings plan, the deduction regarding a cooperative investment plan and the deduction regarding Québec business investment companies.

❑ Information return

The tax regulations will be amended to specify that any person who makes a payment as either financial assistance of last resort under the *Act respecting income support, employment assistance and social solidarity* or as similar government assistance will be required to file an information return, on the prescribed form, regarding such payment, except as regards the portion relating to:

— medical expenses incurred by the recipient of the payment or on his behalf;

— an amount intended to cover the needs of children, whether minor or of full age;

— an amount received as a special benefit designed to cover certain specific needs.

This information return must be sent to the Minister of Revenue no later than the last day of February of the calendar year following the one during which the assistance payment was made. A copy of the return must also be sent, by the same deadline, to the recipient of the payment.

This change will apply to payments of assistance made after December 31, 2001.

2. MEASURES CONCERNING BUSINESSES

2.1 Fiscal measures relating to biotechnology development in certain designated sites

Fiscal measures relating to biotechnology development in certain designated sites were announced in the Supplement to the Government's Budgetary Policy on March 19, 2002 (Supplement).

Briefly, a corporation that moves into a designated site, namely the Cité de la biotechnologie et de la santé humaine du Montréal métropolitain or the Zone de développement des biotechnologies de Sherbrooke, can claim a refundable tax credit, at a rate of 40%, with respect to the increase in payroll attributable to eligible employees of the corporation, for three consecutive calendar years. Furthermore, a foreign specialist employed by such a corporation can take advantage, for a period of five years, of a tax exemption on employment income.

To further stimulate the development of the biotechnology sector, the territory covered by these measures will be expanded to another site with a focus on biotechnology, namely the Cité de la biotechnologie agroalimentaire, vétérinaire et agroenvironnementale de Saint-Hyacinthe (the Cité).

The Cité will be located on the land designated by lot numbers 1 967 771 and 2 507 707 of the cadastre of Québec, Saint-Hyacinthe registration division, namely, in the latter case, the same lot as the New economy centre and the Centre de développement des biotechnologies of Saint-Hyacinthe.

Accordingly, as of calendar year 2002, a corporation that moves into the Cité will be able to claim the refundable tax credit for biotechnology development in certain designated sites, according to the same terms and conditions as those announced in the Supplement.

Similarly, a foreign specialist employed by an eligible corporation will be able to benefit from a tax holiday, according to terms and conditions similar to those announced in the Supplement.

More specifically, an individual who commences employment as a foreign specialist with a corporation that begins to carry on a certified business in the Cité, no later than during calendar year 2005, may benefit from the five-year tax holiday only if he concludes an employment contract with such corporation while it is an eligible corporation, or if he commences employment as a foreign specialist with such corporation, while it is an eligible corporation, after the date of publication of this information bulletin and before the beginning of the third calendar year following the one in which a certified business thus begins to be carried on.

An individual who commences employment as a foreign specialist with a corporation that begins to carry on a certified business in the Cité, during calendar year 2006, may benefit from the five-year tax holiday only if he concludes an employment contract with such corporation while it is an eligible corporation, or if he commences employment as a foreign specialist with such corporation, while it is an eligible corporation, prior to January 1, 2009.

2.2 Clarification concerning various refundable tax credits granted in certain regions

In recent years, the government has introduced many specific fiscal measures, for the benefit of certain regions, to bolster economic development in these regions and stimulate the development and expansion of businesses.

In particular, three refundable tax credits were put in place to encourage job creation in certain regions of Québec, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

Briefly, these tax credits are allowed regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in one of the target regions, for five consecutive calendar years.

To be considered eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec.

On July 11, 2002, the application details of these three tax credits were changed to enable an eligible corporation to request, following a major unforeseen event that results in an interruption in its activities, the cancellation of an eligibility certificate issued for a given calendar year.[1] Such a corporation may, when it resumes activities, apply for an eligibility certificate regarding a subsequent calendar year if it otherwise satisfies the other eligibility conditions. This adjustment enables the corporation to take advantage of the tax credit during the stipulated five calendar years, even if it has to interrupt its activities for a certain period.

In most cases, a major unforeseen event will have an impact not only on the eligible corporation, but also on the employees of such corporation and on the entire local economy.

The application details of these three tax credits are therefore clarified to better reflect the objective of this adjustment, i.e. to mitigate the impacts of a major unforeseen event, while providing a measure of stability for a local economy.

Accordingly, to take advantage of the adjustment relating to the eligibility certificate, following a major unforeseen event, a corporation must resume its activities in the same municipality or in a municipality that is no more than 40 kilometres distant.

This clarification will apply as of calendar year 2002.

2.3 Montréal Foreign Trade Zone at Mirabel

A corporation that carries on a business within the Montréal Foreign Trade Zone at Mirabel (Mirabel zone), particularly in the field of international logistics, aircraft maintenance and repair, supplementary professional training in aviation or in the field of light processing, and regarding which the Minister of Finance, the Economy and Research has issued an eligibility certificate, enjoys, in general, until December 31, 2013, tax benefits consisting of an exemption from income tax, an exemption from the tax on capital and an exemption from employer contributions to the Health Services Fund.

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[1] Bulletin d’information 2002-8.

During the same period, such a corporation may also claim other tax benefits, in particular consisting of a refundable tax credit regarding acquisition expenses or rent paid for an eligible asset.

A change will be made to the general eligibility conditions for the tax benefits relating to the Mirabel zone to enable the transfer to an eligible business or part of an eligible business, so that the tax benefits associated with the zone may continue to apply regarding the carrying on of such business or such part of a business, after such transfer, for the remaining period stipulated in the eligibility certificate initially issued.

In addition, the tax legislation will be amended to introduce an obligation to hold, for a minimum of three years, an asset eligible for the purposes of the refundable tax credit relating to the acquisition expense of such asset.

2.3.1 Change to general eligibility conditions

Currently, to be eligible for the tax benefits relating to the Mirabel zone, the activities of a business or of part of a business carried on by a corporation in the zone must be complementary to the activities of businesses otherwise carried on in Québec.

More specifically, to obtain an eligibility certificate regarding a business or part of a business, a corporation must submit a business plan to the Société de développement de la Zone de commerce international de Montréal à Mirabel (the Société de développement), in which it shows that the activities it plans to carry out constitute a start-up or expansion project in specific niches that are significantly distinct, as the case may be, from those of businesses already carried on in Québec. In addition, the activities must be new activities of the corporation or a significant expansion of the current activities of a business carried on by the corporation.

The transfer of an eligible business or part of an eligible business carried on in the Mirabel zone may be unavoidable in some situations, such as the reorganization of a corporation. In such situations, the activities of the eligible business or part of the eligible business of the corporation making the transfer (the ceding corporation) cannot complement those of the corporation that wishes to continue such activities (the accepting corporation).

Since the ceding corporation already carries on the business or part of a business it is transferring to the accepting corporation, the latter cannot show, in the business plan it must submit to the Société de développement, that the activities it plans to carry out in the Mirabel zone are complementary with activities of businesses otherwise carried on in Québec. For this reason, it therefore cannot obtain an eligibility certificate regarding the transferred business or part of a business.

In this context, to give full effect to the tax benefits relating to the Mirabel zone, a change will be made to the eligibility conditions of these tax benefits, to enable a corporation to enjoy them when it continues to carry on an eligible business or part of an eligible business that has been transferred to it.

More specifically, a change will be made to the eligibility conditions of the tax benefits relating to the Mirabel zone so that the Minister of Finance, the Economy and Research may issue an eligibility certificate regarding a business or part of a business that is transferred by a corporation (the ceding corporation) to another corporation (the accepting corporation).

However, if only a part of a business is transferred, the Minister of Finance, the Economy and Research will issue an eligibility certificate to the accepting corporation only if the ceding corporation has ceased to carry on in the Mirabel zone the business covered by the transfer.

In addition, the period during which the accepting corporation may enjoy the tax benefits relating to the Mirabel zone, regarding a business or part of a business so transferred, will be calculated taking into account the period during which the ceding corporation previously enjoyed these tax benefits regarding such business or such part of a business.

For greater clarity, in addition to all the items that must be contained in the business plan that the accepting corporation must submit to the Société de développement, it must also indicate in its business plan that the transfer involves a business or part of a business already carried on in the Mirabel zone, regarding which an eligibility certificate is in effect at the time the business plan is filed, and provide the Société de développement with all the information needed to identify such business or part of a business.

In addition, the accepting corporation must comply with all the other eligibility conditions otherwise applicable to the tax benefits relating to the Mirabel zone, regarding the business or part of a business it continues to carry on.

On this matter, the Minister of Finance, the Economy and Research may refuse to issue a new eligibility certificate that the accepting corporation may subsequently apply for in relation to a significant expansion of the activities of the business or part of the business it continues to carry on, if she considers that such expansion would have constituted a normal increase in the activities of the business or part of the business transferred should no transfer had taken place. The Minister of Finance, the Economy and Research may also refuse to issue such an eligibility certificate if she considers that the expansion results from shifting activities otherwise carried out in Québec, outside the Mirabel zone, to such the zone.

This change will apply regarding a transfer of an eligible business or part of an eligible business occurring after the date of publication of this information bulletin.

2.3.2 Refundable tax credit for acquisition expenses or rent paid for an eligible asset

A corporation that carries on an eligible business in the Mirabel zone can claim a refundable tax credit for the acquisitions expenses of an eligible asset.

In this regard, an eligible asset means a depreciable asset, with the exception of an incorporeal asset, that must, in particular, be used by the corporation exclusively or almost exclusively in the Mirabel zone, and exclusively or almost exclusively to earn income from an eligible business.

In addition, this refundable tax credit is designed in particular to held corporations to acquire assets that will enable them to carry on a business in the Mirabel zone.

To ensure that the objective of this refundable tax credit is achieved, the tax legislation will be amended to introduce the obligation that a corporation must hold, for a minimum of three years, an asset regarding which it benefited from this tax credit.

More specifically, the tax legislation will be amended to provide that a corporation that receives a refundable tax credit regarding the acquisition expense of an eligible asset it acquired in the course of carrying on an eligible business, must use such asset, exclusively or almost exclusively in the Mirabel zone, and exclusively or almost exclusively to earn income from an eligible business, during a minimum and continuous period of three years following the initial use of such asset.

Furthermore, this refundable tax credit will be recovered by means of a special tax if an eligible asset is not used during all of this period. However, this special tax will not apply in situations where the asset ceases to be used by the corporation because of its loss, involuntary destruction caused by fire, theft or water, or major breakdown.

In addition, this special tax will not apply in situations where the asset ceases to be used by the corporation because it is obsolete. However, an asset shall be deemed not to be obsolete at a given time during such period if the corporation alienates it at such given time for proceeds of alienation equal to or greater than 10% of the initial cost of the asset for the corporation.

This change will apply regarding an eligible asset acquired under a contract concluded after the day of publication of this information bulletin.

2.4 Easing of the special tax applicable to eligible specialized equipment used in the course of carrying out an innovative project

A corporation that carries out an innovative project in the information and communications technology sector in an information technology development centre or in a new economy centre, or in the biotechnology field in biotechnology development centre, can claim a number of tax benefits, in particular a refundable tax credit for the acquisition or lease of eligible specialized equipment.

To ensure that the objective of this tax credit is achieved, the tax legislation stipulates, essentially, when the eligible specialized equipment is acquired by the corporation, that this tax credit can be recaptured by means of a special tax if the asset ceases, other than because of its loss or involuntary destruction by fire, theft or water or a major breakdown, to be used by the corporation mainly in a designated site, before the end of the three years following its initial use by such corporation.

This special tax will be eased. More specifically, this special tax will not apply in situations where such an asset ceases to be used by the corporation because it is obsolete. However, an asset shall be deemed not to be obsolete at a given time during such period if the corporation alienates it at such given time for proceeds of alienation equal to or greater than 10% of the initial cost of the asset for the corporation.

This easing measure will apply by declaration.

2.5 Adjustments to the five-year tax holidays granted to certain foreign employees

Generally speaking, an individual who is not a resident of Canada, and who comes to Québec to work in certain specialized sectors, can claim a tax holiday on his salary or on all his income, as the case may be, for five years.

For instance, foreign specialists, experts and researchers who come to Québec to hold a job with an employer who carries on a business, in particular in the Cité du multimédia, E-Commerce Place, the Montréal Foreign Trade Zone at Mirabel or a new economy centre, enjoy such a tax holiday.

In this regard, all the tax holidays granted to foreign employees are subject to an eligibility condition to the effect that the foreign employee must not have resided in Canada immediately prior to either concluding his employment contract or taking up his duties.

2.5.1 Interruption of employment during the five-year exemption period

Current rules stipulate exceptions to the eligibility condition to the effect that the foreign employee must not have resided in Canada immediately prior to either concluding his employment contract or taking up his duties, to enable the employee to change jobs while continuing to reside in Canada, and continue to benefit from a tax holiday granted to foreign employees, despite the interruption in employment.

For instance, an amendment to the tax legislation was announced in the November 1, 2001 Budget Speech to allow a foreign employee to change jobs while continuing to reside in Canada, and nonetheless benefit from a different tax holiday regarding the new job for the remainder of the original five-year exemption period.

Accordingly, such an individual is deemed not to reside in Canada at a given time when, prior to that time, he held a job regarding which he benefited from one of the tax holidays granted to foreign employees.

Concerning all the exceptions according to which an individual is currently deemed not to reside in Canada in certain situations, the five-year exemption period applicable to each of the tax holidays granted to foreign employees is calculated including the period of interruption between eligible jobs. This reduces the effective period of the tax holiday by a period equivalent to such interruption.

Since these exceptions are designed to enable mobility of an individual benefiting from a tax holiday granted to foreign employees, in that he can change jobs in certain situations and continue to benefit from a tax holiday, an amendment will be made to the tax legislation so that, in these situations, the period of interruption between eligible jobs does not reduce the effective period of the five-year exemption.

More specifically, the tax legislation will be amended so that, when an individual is deemed not to reside in Canada for the purposes of the tax holidays granted to foreign employees, the five-year exemption period applicable to these tax holidays will be calculated without including the period of interruption between eligible jobs for the purposes of these tax holidays.

For greater clarity, the activities of the individual during such period of interruption between eligible jobs will not be taken into account for the purposes of the tax holidays granted to foreign employees.

This change will apply as of January 1, 2001.

2.5.2 Five-year exemption period

The initial tax holidays designed to foster the recruitment of foreign employees were introduced in the 1980s. They were the tax holiday for foreign researchers who come to Québec to hold a scientific research and experimental development (R&D) job with an employer who carries on a business, and the tax holiday for foreign specialists who come to Québec to hold a job with an employer who carries on a business recognized as an international financial centre (IFC).

These two tax holidays cover different sectors of activity and for a long time were the only tax holidays designed to foster the recruitment of foreign employees. Initially, the maximum exemption period was two years. Currently, the maximum exemption period of each of these tax holiday is five years, as with each of the other tax holidays designed to foster the recruitment of foreign employees.

Furthermore, the number of tax holidays designed to foster the recruitment of foreign employees has increased over the last few years. In addition, some tax holidays granted to foreign employees cover similar sectors of activity, so that in some cases, an individual may qualify for the purposes of more than one tax holiday.

This situation was acknowledged in the November 1, 2001 Budget Speech. Henceforth, a foreign employee may change jobs while continuing to reside in Canada, and nonetheless benefit from a different tax holiday regarding the new job. In this case, the maximum exemption period of these tax holidays cannot exceed a period of five years, beginning on the first day when the foreign employee benefited from the tax holiday applicable to the first job.

This restriction concerning the maximum exemption period of five years applicable to tax holiday granted to foreign employees currently applies only to an individual who changes jobs while continuing to reside in Canada.

Regarding an individual who does not reside in Canada and comes to Québec to hold a job for which he can benefit from a tax holiday, no account is taken of any earlier exemption period he may have benefited from in relation to other tax holidays granted to foreign employees.

For instance, an individual who has previously benefited from the tax holiday regarding IFCs in prior taxation years, and who since ceased to reside in Canada, could benefit from a new five-year exemption period regarding the tax holiday for R&D if he returns to Québec to hold a job otherwise eligible for the purposes of such tax holiday.

In this context, in order to standardize the rules applicable to all tax holidays granted to employees, an amendment will be made to the tax legislation so that there is only one five-year exemption period applicable to all such tax holidays.

More specifically, the tax legislation will be amended so that the exemption period applicable to each of the tax holidays granted to foreign employees does not exceed five years for an individual, taking into account any previous exemption period established regarding such individual under all such tax holidays.

For greater clarity, this amendment will apply to all situations regarding which an exception effectively deems that an individual does not reside in Canada in certain situations, including the one mentioned in the preceding example. It will also apply to situations where an individual returns to Québec to hold a job otherwise eligible for the purposes of a tax holiday granted to foreign employees, and has previously benefited from the same tax holiday or another tax holiday in prior taxation years.

Accordingly, the single five-year exemption period applicable to all tax holidays granted to foreign employees must be calculated without taking into account, if applicable, any period of interruption between eligible jobs for the purposes of such tax holidays, even if the individual ceased to reside in Canada during such period of interruption.

This amendment will apply regarding an employment contract concluded after the date of publication of this information bulletin.

2.6 Designation of a new eligible public research centre

Taxpayers are currently entitled to a refundable tax credit of 40% for R&D activities carried out by an eligible public research centre under an eligible research contract entered into with such a centre.

The Centre de foresterie des Laurentides will be recognized as an eligible public research centre.

This recognition will apply to R&D carried out after September 17, 2002, under an eligible research contract concluded after that date.

2.7 Refundable tax credit for the production of multimedia titles

The refundable tax credit for the production of multimedia titles was introduced in the May 9, 1996 Budget Speech and has since been adjusted to adapt it to this constantly changing sector.

Briefly, this tax credit has two components and applies to multimedia titles produced for commercial use, including those produced to order. The titles must be published on electronic media, be controlled by software that allows interactivity and include an appreciable volume of three of the following four types of information: text, sound, static images and animated images. In addition, these titles must either be intended for mass distribution on the consumer market or made accessible to the general public through communications networks.

In addition, a corporation that wishes to benefit from this tax credit must obtain the required certifications from Investissement Québec regarding the titles it produces if it wishes to benefit from the general section, or regarding its activities if it wishes to benefit from the section applicable to specialized corporations.

In light of the experience gained to date, the refundable tax credit for the production of multimedia titles could be better adapted to target recipients in so far as the categorization of titles is concerned. In addition, the notion of titles produced in series, which is used to determine the eligibility of production work, must be clarified.

Lastly, since the ministère du Revenu (MRQ) must, in some circumstances, refer to Investissement Québec for the purposes of determining the eligibility of a multimedia title, consultation authority is necessary.

2.7.1 Categories 1 and 2

Under the current rules, the level of tax assistance granted to a producer of a multimedia title is determined in accordance with the parameters described in the following table.

TABLE 1
Current categories and levels of assistance

Category	Basic credit (depending on eligible labour expenditures)	Plus: premium for French (if any)
Category 1		
multimedia titles intended for mass commercialization	40%	10%
Category 2		
Other multimedia titles	35%	n/a

This classification, established solely on the basis of a criterion based on the type of commercialization of the title, appears not to correspond perfectly to the reality of the market for the production of multimedia titles.

Accordingly, a more representative standard for the classification of multimedia titles would be one based on business risk, which is estimated in particular by the fact that a title is or is not made to order.

In addition, while it is still of primary importance that the title be commercialized, that is that it have a recognized commercial value, it may be that it targets a specific segment of the public without being restricted to only a few persons. From this standpoint, the mass commercialization requirement does not appear appropriate.

Consequently, eligible multimedia titles will henceforth be grouped into the two categories described in the following table, and the level of tax assistance will apply on the basis of these new categories.

TABLE 2
New categories and levels of assistance

Category	Basic credit (depending on eligible labour expenditures)	Plus: premium for French (if any)
Category 1 Multimedia titles produced without receiving an order and intended for commercialization	40%	10%
Category 2 Other multimedia titles	35%	n/a

Briefly, a title produced to order is a title for which production begins only after an order has been placed with the multimedia producer. Accordingly, a title made after showing a "demo" and which has been taken up does not constitute a title produced to order.

In addition, for a title to be considered as intended for commercialization, two criteria are essential, namely the title’s accessibility to the public and the execution of genuine commercialization efforts.

Accordingly, in general, a title may satisfy the public accessibility criterion even if, in fact, a relatively small clientele is truly interested in the product, while a website open to members of a particular group who gain access with a password does not satisfy it. Similarly, a title consisting of course notes distributed with no other commercialization effort on a website accessible to anyone would not satisfy the second criterion.

For greater clarity, the new categories will also apply, with the necessary adaptations, to the section applicable to specialized corporations.

These changes will apply regarding titles for which the main production work begins after the date of publication of this information bulletin.

2.7.2 Clarifications to the notion of titles produced in series

Under existing rules, eligible production work generally means the work done to carry out the production stages of a multimedia title during a period starting with the beginning of the conception stage and ending 24 months after the date of completion of the final version of the multimedia title or of the first titled in a series of multimedia titles, as the case may be.

The tax assistance a corporation can receive regarding the production of multimedia titles in series is not affected by the distribution method, whether Internet or CD-ROM, chosen by the corporation. In either case, the tax assistance granted will depend on the date of completion of a final version of the first title of this series, regardless of the change in content or the technical improvements in versions following the first title of the series.

It may sometimes be difficult to determine if a new version should be considered an update of a previous version or a new multimedia title, and accordingly it appears necessary to clarify the notion of titles produced in series, both regarding the general section and the section applicable to specialized corporations.

More specifically, the notion of titles produced in series will be clarified so that multimedia titles that are part of the same collection do not constitute multimedia titles produced in series, provide the scenario and the subject include notable differences from one title to another. Consequently, a time period of 24 months starting on the date of completion of a final version will be allocated to each title that is part of such a collection.

Briefly, the expression scenario refers to the items relating to the conception and formulation of the story, the definition of characters and the graphic environment as well as the writing of the tree structures.

However, in the case of a collection whose scenario and subject are practically the same from one title to another, for instance in the case of an annual update to a product catalogue, what is at issue is a series of titles and accordingly a single period of 24 months is available, starting on the date of completion of a final version of the first multimedia title of the series.

These changes will apply by declaration.

2.7.3 Consultation authority

For the purposes of the section applicable to specialized corporations, the MRQ is responsible for determining whether a multimedia title is eligible.

In this case, a multimedia title is eligible if it is a multimedia title for which Investissement Québec has issued an attestation, a favourable advance ruling or a certificate, for the purposes, in particular, of the general section of the refundable tax credit for the production of multimedia titles. Accordingly, the MRQ must be able to obtain the information necessary for this determination from Investissement Québec.

Consequently, the MRQ may consult Investissement Québec to learn whether a given multimedia title is an eligible multimedia title. For greater clarity, only the information needed to obtain an opinion from Investissement Québec will be forwarded by the MRQ, in order to preserve the otherwise confidential nature of the information obtained by the MRQ in the course of applying a tax law.

This change will apply as of the date of publication of this information bulletin.

2.8 Deferral of taxation of an eligible rebate upon certain alienations

On February 21, 2002, the government supported the efforts of Québec cooperatives to increase their capitalization by introducing a mechanism for the deferral of taxation of an eligible rebate received by a member of an eligible cooperative.[2]

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[2] Bulletin d’information 2002-2.

Briefly, a taxpayer who is a member of an eligible cooperative during a taxation year of such cooperative, can deduct, in calculating his taxable income, the amount of an eligible rebate attributed to him, consisting of a preferred unit of such cooperative, during a taxation year. Such deduction enables a member of an eligible cooperative to defer taxation of the value of a rebate attributed to him consisting of a preferred unit.

When the preferred unit for which a deduction for eligible rebate was granted is subsequently alienated, the member must include, in calculating his taxable income, the amount of the deduction for rebate he claimed in relation to the alienated unit.

For the purpose of this measure, the notion of alienation refers to each of the situations currently covered by Québec's tax legislation. For instance, the transfer of a preferred unit to a corporation or to a trust governed by a registered retirement savings plan (RRSP), its conversion or its redemption constitute alienations leading to the inclusion in the calculation of taxable income of the member, of the amount of the deduction for rebate he claimed in relation to the unit thus alienated.

However, in keeping with the fiscal policy currently applicable regarding transfers of property resulting from involuntary events or circumstances, the immediate tax consequences resulting from certain alienations will also be limited for the purposes of the deduction for eligible rebate.

More specifically, when the alienation of a preferred unit for which a deduction for eligible rebate has been granted results from the merger or winding-up of the eligible cooperative that distributed such preferred unit, the deferral of taxation of the eligible rebate will be maintained until the subsequent alienation of the preferred unit attributed by the new cooperative replacing the initial unit.

This change will apply regarding the alienation of a preferred unit of an eligible cooperative resulting from a merger or winding-up occurring after February 21, 2002.

2.9 Changes to the stock savings plan

Briefly, the stock savings plan (SSP) allows an individual to deduct, in calculating his taxable income, for a taxation year, the cost of shares he acquired under the plan no later than December 31 of the year. The amount of such deduction, for a year, may not exceed 10% of the individual's "total income" for such year. The main objective of the plan is to improve the capitalization of Québec corporations.

A corporation that intends to proceed with a public share offering under the SSP must comply with various rules. One of these, the commercial history rule, requires in particular that throughout the period of twelve months preceding the date of the receipt of the final prospectus or filing exemption (the date of the receipt), the shares of the corporation be listed on a Canadian stock exchange or, alternatively, during such period, the corporation have at least five full-time employees who were not insiders[3] or persons related to them (eligible employees).

Furthermore, another rule, the 50% rule, holds that, on the date of the receipt, not more than 50% of the value of the assets of the corporation, as shown in the financial statements submitted to its shareholders for its most recent taxation year ended prior to such date, consist of, briefly, cash on hand or on deposit, debt securities (debentures, bonds, etc.) or equity securities (shares, stock, units, etc.).

In addition, when a corporation has emerged from a corporate reorganization following a merger of corporations or a parent-subsidiary winding-up, for instance, specific terms and conditions are stipulated to determine whether the requirements regarding SSP rules are satisfied.

Essentially, in fiscal policy terms, the first rule mentioned above is designed to ensure that a corporation that makes a public share offering under the SSP has some historical stability, while the second is designed to exclude holding companies from the SSP.

Without changing the fiscal policy objectives, changes will be made to certain SSP requirements.

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[3] This expression is defined in section 89 of the *Securities Act*.

First, the requirements regarding the commercial history rule will be changed so that a corporation's listing on a Canadian stock exchange, during the period of twelve months preceding the date of the receipt, is no longer a determining factor for compliance with this rule.

In addition, the rules regarding corporate reorganizations will be streamlined so that, for the purposes of the various SSP requirements bearing on a retrospective reference period, more importance is given to the attributes of the replaced or wound-up corporations.

Lastly, a streamlining change will be made to the 50% rule when a significant change occurs in the composition of the assets of a corporation during the period between the date of its last annual financial statements and the date of the receipt of the projected offering.

2.9.1 Commercial history rule

As previously mentioned, a corporation that intends to proceed with a public share offering under the SSP must demonstrate that it has a sufficient commercial history. Furthermore, the existing terms and conditions of the plan impose compliance with this rule for many reasons. Essentially, the purpose of the requirement is to direct the tax assistance arising from the SSP to corporations that have achieved some maturity.

Accordingly, under current legislation, a corporation complies with the commercial history rule if, in particular, it has, during the period of twelve months preceding the date of the receipt, a class of shares of its capital stock listed on a Canadian stock exchange.

❑ **Change concerning listing on a stock exchange**

Initially, the requirement relating to listing on a *Canadian stock exchange* for a period of twelve months referred rather to the *Montréal Exchange*. However, following the restructuring of Canadian stock exchanges in the fall of 1999, and to reassure markets as to the ongoing nature of the SSP, the reference to the *Montréal Exchange* was replaced with a reference to a *Canadian stock exchange*.

Some Canadian stock exchanges, in specific circumstances, allow the listing or maintenance of securities of corporations that do not actively carry on commercial activities.

In this context, the fact that a corporation has a class of shares of its capital stock listed on a Canadian stock exchange for a period of twelve months is not necessarily indicative of the existence of a commercial history sufficient to satisfy the fiscal policy objectives. Accordingly, the tax legislation in this regard will be amended.

More specifically, the legislation will be amended to withdraw, for a corporation, the possibility of satisfying the various requirements of the SSP regarding the existence of a commercial history, only because of the listing on a Canadian stock exchange of a class of shares of its capital stock for the period of twelve months preceding the date of the receipt.

This change will apply to public share offerings for which the receipt for the final prospectus, or filing exemption, as the case may be, is granted after December 31, 2002.

❑ **Special case of certain sectors of activity**

Because of the preceding amendment, the main criterion that henceforth will allow a corporation to satisfy the requirements regarding the commercial history rule will be the criterion under which the corporation had, during the period of twelve months preceding the date of the receipt, at least five eligible employees (five employees/twelve months criterion).

In some sectors of activity, the mining sector for instance, the usual practice could lead to the result that corporations that otherwise have adequate historical stability for the purposes of the SSP fail to satisfy the five employees/twelve months criterion. It appears that in certain sectors, corporations do not directly employ personnel to carry on their business, but instead deal with sub-contractors to carry out their activities.

In this context, because of the preceding amendment, it would be technically impossible for these corporations to satisfy the requirements of the commercial history rule, even though they have adequate historical stability for SSP purposes. To prevent such a result, an additional amendment will be made to the legislation.

More specifically, the legislation will be amended so that, under the SSP, the five employees/twelve months criterion is satisfied by a corporation when it has a class of shares listed on a Canadian stock exchange throughout the period of twelve months preceding the date of the receipt, when a person, other than an insider,[4] or partnership provided the corporation, during such period, with services under service contracts, and when the corporation would normally have had to use the services of more than five full-time employees had these services not been so provided by contract.

This amendment will apply to public share offerings for which the receipt of the final prospectus, or filing exemption, as the case may be, is granted after December 31, 2002.

2.9.2 Rules regarding corporate reorganizations

According to current legislation, for the purposes of the various requirements of the SSP regarding a retrospective reference period, usually six or twelve months, special terms and conditions are stipulated when the corporation that intends to make a public share offering under the SSP is either a corporation resulting from a merger (resulting corporation) and a period of at least twelve months has not elapsed between the time of the merger and the date of the receipt, or a corporation that is the parent corporation in a parent-subsidiary[5] type of winding-up that occurred during the period of twelve months immediately preceding the date of the receipt.[6]

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4 *Ibid*.

5 Briefly, such a winding-up consists of the winding-up of a taxable Canadian corporation at least 90% of the issued shares of each class of whose capital stock, immediately prior to the winding-up, belonged to another taxable Canadian corporation and the balance of such shares to persons at arm’s length from such other corporation. The wound-up corporation is then called the "subsidiary" while the other corporation to which the shares belong is called the "parent corporation".

6 For greater clarity, a winding-up occurring during the period of twelve months immediately preceding the date of the receipt means a winding-up carried out, started, or completed during the period of twelve months immediately preceding the date of the receipt, or starting prior to such period and completed after it.

Generally, the effect of these special terms and conditions, for the purposes of determining whether the resulting corporation or the parent corporation satisfies the SSP requirements regarding a retrospective reference period, is to allow the attributes of the replaced or wound-up corporations to be considered. However, such consideration is of limited scope because these special terms and conditions authorize such consideration only regarding replaced or wound-up corporations that, immediately prior to the date of the merger or of the winding-up, as the case may be, had the required attributes for a period equivalent to the retrospective reference period concerned, i.e. for a period of six months or twelve months, as the case may be.

The following example illustrates this result regarding the commercial history rule when it applies to the corporation resulting from a merger and a period of at least twelve months did not elapse between the time of the merger and the date of the receipt, in the specific case of the five employees/twelve months criterion.

On June 1, 2002 (date of the receipt), corporation A, which has 20 eligible employees since its creation and which is the corporation resulting from the merger of corporations X and Y that occurred on July 1, 2001, intends to proceed with a public share offering under the SSP. At the time of the merger, i.e. July 1, 2001, corporation Y had no eligible employees while corporation X had 20 whom it had employed for eleven months, i.e. since August 1, 2000.

Under existing rules, since corporation A has existed for only eleven months, it does not satisfy the requirements of the commercial history rule because it does not satisfy the five employees/twelve months criterion. Furthermore, the attributes of the replaced corporations do not satisfy the requirements of the commercial history rule because neither corporation X nor corporation Y satisfies, immediately prior to the time of the merger, the five employees/twelve months criterion.

Accordingly, since none of corporations A, X or Y independently satisfies the five employees/twelve months criterion, corporation A will not be eligible for the SSP before July 1, 2002 in spite of the fact that corporations A and X had continuously employed 20 eligible employees for 22 months.

To avoid such a result, a change will be made to the SSP rules regarding mergers, successive mergers, windings-up and successive windings-up (corporate reorganizations).

More specifically, the legislation will be amended so that, for the purposes of the requirements of the SSP regarding a retrospective reference period in the context of corporate reorganizations, the retrospective reference period to be considered does not exceed the one that would otherwise have been considered had there not been a corporate reorganization.

As a consequence of this amendment, the retrospective reference periods of the various SSP requirements will be the same for all corporations, whether or not they result from a corporate reorganization.

For instance, in the example described above, the retrospective reference period would be the period between June 1, 2002 and June 1, 2001. Consequently, since corporation A has employed more than five eligible employees for eleven months, to satisfy the five employees/twelve months criterion, it is sufficient that either of the two replaced corporations, X or Y, have employed more than five employees for at least one month immediately prior to the merger.

However, this amendment will not affect the existing rule that, in the context of a corporate reorganization, the SSP requirements are applied corporation by corporation and aggregation of the attributes of the replaced corporations is not allowed.

Accordingly, in the preceding example, assuming corporations X and Y, immediately prior to the merger, each had four eligible employees, the attributes of these two corporations would not be relevant for the purposes of the requirements of the SSP regarding the commercial history rule, and their aggregation would not be allowed.

Lastly, for greater clarity, this amendment will apply to all the SSP rules applicable to corporations resulting from a corporate reorganization and for which the requirements bear on a retrospective period, and not only to the requirements relating to the commercial history rule.

These changes will apply in relation to a public share offering for which the receipt for the final prospectus, or the filing exemption, as the case may be, is granted after November 30, 2002.

2.9.3 Change to the 50% rule

As previously mentioned, a corporation that intends to proceed with a public offering of securities under the SSP must satisfy certain rules.

Briefly, one of these rules, the 50% rule, holds that, on the date of the receipt, not more than 50% of the value of the corporation's assets, as shown in its financial statements submitted to shareholders for its most recent taxation year ended prior to such date (latest annual financial statements), consists of shares, units, notes, debentures, bonds, any other debt security, guaranteed investment certificates, mutual fund units, units representing a share in a project or a property, warrants for the purchase or subscription of such shares, or cash on hand or on deposit. Essentially, this rule is designed to exclude holding companies from the SSP.

Accordingly, analysis of the composition of the assets of a corporation is based on the latest annual financial statements of the corporation. Furthermore, it is possible that during the period between the date of the receipt and the date of the latest annual financial statements of a corporation, i.e. a period that may represent more than eleven months, significant changes occur in the composition of the assets of a corporation that substantially change its financial profile.

The current legislation does not allow the Minister of Revenue, who is responsible for determining whether a corporation is eligible for the SSP, to take a significant change of this nature into consideration when he analyzes the financial profile of a corporation for the purposes of the 50% rule.

To correct this situation, the legislation will be amended to allow the Minister of Revenue to take into consideration significant changes that may occur in the composition of the assets of a corporation after the date of its latest annual financial statements.

More specifically, the legislation will be amended so that, for the purposes of the requirements relating to the 50% rule, when, at the same time, a significant change regarding the composition of the assets of a corporation occurs between the date of the latest annual financial statements of the corporation and the date of the receipt, and the Minister of Revenue is of the view that the business carried on by the corporation is such that it is covered by fiscal policy, for instance that it is not a holding company, the Minister of Revenue may, to determine the percentage to be established for the purposes of the 50% rule, refer to more recent financial statements than the corporation’s latest annual financial statements or, if such more recent financial statements do not exist, refer to any other document he considers pertinent to establish the relative proportion of the various assets of the corporation on the date of the receipt.

For the purposes of this change, "a significant change" in relation to the composition of the assets of a corporation means a reduction of at least 25 percentage points between the percentage established for the purposes of the 50% rule and determined on the basis of the corporation’s latest annual financial statements and the percentage established in accordance with this rule and determined on the basis of the corporation’s most recent financial statements or, if such financial statements do not exist, determined on the basis of any other document that the Minister of Revenue considers pertinent to establish the relative proportion of the various assets of the corporation on the date of the receipt.

This change will apply to public share offerings for which the receipt for the final prospectus, or the filing exemption, as the case may be, is granted after November 30, 2002.

2.10 Adjustment to the calculation of the paid-up capital of savings and credit unions

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

The rate applicable, as well as the method of calculating paid-up capital, are different depending on whether the corporation is a financial institution or a corporation which is not a financial institution.

In general, the paid-up capital of a corporation which is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations, and a deduction is allowed for certain items. Lastly, a tax rate of 0.64% is currently[7] applied to such paid-up capital.

However, the tax on capital applicable to financial institutions is calculated on a different basis than that of other corporations. This distinction is essentially attributable to the fact that it would not be appropriate to tax some liabilities of financial institutions, chiefly deposits. In addition, a tax rate of 1.28% is currently[8] applied to their paid-up capital.

In the specific case of a corporation that is a savings and credit union, the paid-up capital of such a corporation is obtained by adding certain items that appear in the "equity" and "long-term liabilities" sections of the balance sheet and half the book value of the assets that are tangible property.

The calculation of the paid-up capital of a savings and credit union does not provide for a reduction or deduction mechanism regarding investments such corporation may hold in another corporation, even if such other corporation is itself a savings and credit union. However, to avoid double-taxation of capital when a savings and credit union holds a capital share in an investment fund in another savings and credit union, the savings and credit union that issues such share need not include it in calculating its paid-up capital.

The capitalization of certain types of savings and credit unions consists mainly of capital shares held by other savings and credit unions, but does not consist of capital shares in an investment fund. Accordingly, in view of the specific mechanism applicable to savings and credit unions, the result is double-taxation of capital. The savings and credit union issuing such shares must include this component of capitalization in the calculation of its paid-up capital, while the savings and credit union that holds such participation cannot claim a reduction or a deduction regarding it in calculating its paid-up capital.

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[7] A gradual reduction of this rate from 0.64% to 0.30% was announced in the November 1, 2001 Budget Speech.

[8] A gradual reduction of this rate from 1.28% to 0.60% was announced in the November 1, 2001 Budget Speech.

Accordingly, to avoid such a situation of double-taxation and in keeping with the mechanism applicable to savings and credit unions, a change will be made to the components that must be included in the calculation of the paid-up capital of a savings and credit union.

More specifically, a savings and credit union will not have to include in the calculation of its paid-up capital "issued permanent shares and any issued participating interest in the nature of a permanent share, as well as any other capital share", when such participation is held by another savings and credit union.

This change will apply to taxation years ending after June 30, 2001.

2.11 Changes regarding the logging tax

The logging tax, for a taxation year, is equal to 10% of a taxpayer's income from logging for such taxation year, calculated according to the tax legislation. In this regard, income from logging includes, in particular, the income attributable to standing timber, realized upon the sale of a forest land, as well as the income from the sale of forest products, such as logs and wood chips.

It should be noted however, that the logging tax does not, in principle, increase the taxpayer's tax burden since it is covered by a deduction applied against income tax in both the federal and Québec tax systems.

Differences exist in the federal and Québec tax provisions regarding logging. To minimize these differences and standardize the tax treatment of logging, two changes will be made to the tax provisions regarding the logging tax.

2.11.1 Deemed alienation of a forest land

The tax legislation will be amended first so that, upon the deemed alienation of a forest land by a taxpayer, the income attributable to standing timber must be included in the calculation of the taxpayer's income from logging for the taxation year in which such deemed alienation occurs.

This change will apply regarding a deemed alienation of a forest land occurring after the date of publication of this information bulletin.

2.11.2 Wood chips

In addition, for the purposes of the logging tax, the notion of forest products will be changed to withdraw the reference to wood chips.

This change will apply to logging carried out in a taxation year ending after the date of publication of this information bulletin.

3. OTHER FISCAL MEASURES

3.1 Increase in the exemptions granted for determining premiums under the prescription drug insurance plan

The basic prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec (RAMQ), or by insurers transacting group insurance or administrators of private-sector employee benefit plans.

As a rule, all persons whose coverage is provided by RAMQ in a given year must, in filing their income tax return for that year, pay a premium to finance the Québec prescription drug insurance plan, of which they are beneficiaries. However, to take each person's ability to pay into account, deductions are granted in calculating this annual premium. The level of these deductions is set, notably, to exempt from paying the annual premium a person or a couple who receives the maximum amount of guaranteed income supplement from the federal government.

To adhere to the principle of taking each person's ability to pay into account in determining the amount of the premiums that must be paid to finance the Québec prescription drug insurance plan, adjustments must be made to the amounts of the deductions used to calculate the premiums payable for 2002. The following table shows the deductions that will be granted in calculating the premiums payable by persons whose coverage is provided by RAMQ in 2002.

Deductions according to family situation
Québec prescription drug insurance plan (2002)
(in dollars)

Family situation	Deduction
1 adult, no children	11 680
1 adult, 1 child	18 940
1 adult, 2 children or more	21 610
2 adults, no children	18 940
2 adults, 1 child	21 610
2 adults, 2 children or more	24 075

3.2 Clarifications concerning non-compliance with investment requirements imposed on Fondaction

Since the creation of the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (Fondaction), the Québec government has supported the mission of this labour fund by granting a non-refundable tax credit to individuals who purchase shares in the fund.

Owing to the tax benefit granted to shareholders, special legislative provisions had to be adopted when Fondaction was created to ensure in particular that individual's savings would be used as a financing tool to foster the growth of small and medium-sized entities.

The *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* (Act establishing Fondaction) stipulates that, during each fiscal year, the proportion of investments by Fondaction in eligible enterprises entailing no security or hypothec must represent, on average, at least 60% of the average net assets of Fondaction for the preceding year, of which a part representing at least two-thirds of this minimum percentage must be invested in enterprises whose assets are less than \$50 000 000 or whose net equity is no more than \$20 000 000.

However, though not made in eligible enterprises, investments made otherwise than as first purchaser for the acquisition of securities issued by eligible enterprises and certain investments in new or substantially renovated income-producing immoveable properties are, in a certain proportion, eligible for the purposes of these investment requirements.

For the purposes of these investment requirements, the expression "eligible enterprise" means:

— a "Québec enterprise", i.e. an enterprise in active operation the majority of whose employees reside in Québec and whose assets are less than \$100 000 000 or whose net equity is no more than \$40 000 000;

— an enterprise whose operation, outside Québec, has an impact on the increase or maintenance of the level of employment or of economic activity in Québec or will likely have such an impact, in the cases and to the extent stipulated in a policy adopted by the board of directors and approved by the Minister of Finance, the Economy and Research.

The Act establishing Fondaction originally stipulated that Fondaction must comply with the investment requirements as of the fiscal year beginning on June 1, 1999.

However, further to the March 29, 2001 Budget Speech, the Act will be amended to defer, until the fiscal year beginning on June 1, 2001, the period for which compliance with the investment requirements is compulsory for the first time.

In the event that, during a fiscal year beginning after May 31, 2001, Fondaction fails to comply with the investment requirements, its ability to issue shares during the following fiscal year will be reduced.

The Act establishing Fondaction stipulates to what extent this ability is limited, depending on whether the share of average covered and eligible investments is less than 30% or at least 30, 40 or 50% of the average net assets of Fondaction for the preceding year, or the portion of such investments made in Québec enterprises whose assets are less than $50 000 000 or whose net equity is no more than $20 000 000 is less than 25% or at least 25, 30 or 35% of such average net assets.

Considering that the investment standard relative to enterprises whose assets are less than $50 000 000 or whose net equity is no more than $20 000 000 applies not only to Québec enterprises, but also to all other eligible enterprises, the Act establishing Fondaction will be amended to replace the reference to Québec enterprises whose assets are less than $50 000 000 or whose net equity is no more than $20 000 000 with a reference to eligible enterprises whose assets are less than $50 000 000 or whose net equity is no more than $20 000 000.

These changes will apply to any fiscal year of Fondaction beginning after May 31, 2001.

3.3 Department of Finance Canada news release of October 11, 2002

On October 11, 2002, the Secretary of State (International Financial Institutions) tabled in the House of Commons, on behalf of the Deputy Prime Minister and Minister of Finance of Canada, a Notice of Ways and Means Motion to amend the provisions of the *Income Tax Act* regarding the taxation of the income of non-resident trusts and foreign investment entities.[9]

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[9] Department of Finance Canada news release 2002-084.

These measures were first announced in the federal Budget Speech of February 16, 1999.[10]

While the ministère des Finances has already stated its position on this subject,[11] it is useful to note that, in general, Québec's tax legislation and regulations will be amended to include, with adaptations based on their general principles, the legislative amendments relating to the taxation of the income of non-resident trusts and foreign investment entities.

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10 Budget resolution number 8 of the Notice of Ways and Means Motion to amend the *Income Tax Act* tabled February 16, 1999.

11 1999-2000 Budget Speech, Additional Information, section 1, p. 106.