

BULLETIN D'INFORMATION

2002-11
December 10, 2002

Subject: Extension of the \$500 000 capital gains exemption to the fisheries sector

This information bulletin describes the application details of a new exemption of \$500 000 of capital gains resulting from the alienation of certain assets used in carrying on a fishing business.

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

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

Paper copies are also available, on request, from the Direction générale des consultations et des affaires publiques, at (418) 528-9321.

EXTENSION OF THE \$500 000 CAPITAL GAINS EXEMPTION TO THE FISHERIES SECTOR

Since 1985, a lifetime capital gains exemption of \$500 000 is allowed with respect to gains derived from the alienation of farm assets and shares of a corporation carrying on a small business. Because of the 50% inclusion rate for capital gains realized after October 17, 2000, this results in an exemption of up to \$250 000 of taxable capital gains.

This exemption, which leads to a deduction in the calculation of taxable income, is intended to encourage risk-taking and investment in new businesses and to create a climate more favourable for them to obtain capital. In addition, it gives specific recognition to the particular situation of Québec farmers.

In recent years, the government has used the tax system to leverage regional economic development, in particular for the benefit of Gaspésie and certain maritime regions of Québec.

The fisheries sector is a pillar of economic development in Québec's maritime regions since it provides the essential raw material for many processing activities in those regions. However, the rationalization of the activities of certain fishing businesses and the particularly restricted conditions in which these businesses operate can undermine interest in this sector among new entrepreneurs. Accordingly, like farmers, Québec fishers should be able to benefit from specific support when it is time to transfer the assets used in the course of carrying on their business.

In this context, the tax legislation will be amended to extend the \$500 000 capital gains exemption to the fisheries sector.

More specifically, a third lifetime \$500 000 capital gains exemption, similar to those currently applicable to eligible farm assets and to shares of a corporation carrying on a small business, will be introduced to exempt capital gains resulting from the alienation of eligible fishing assets.

For the purposes of this measure, an eligible fishing asset means a fishing licence, an individual quota or a fishing boat used, by an individual, in the course of carrying on a fishing business.

In this context, a fishing business means the catching of molluscs, crustaceans and marine animals, as well as the harvesting of marine plants.

In addition, the criteria relating to ownership of an eligible farm assets, its possession and use will also apply, with the necessary adaptations, as part of the application of the notion of eligible fishing asset. For example, a fishing asset must in particular have been the property of the individual throughout the 24-month period prior to its alienation for the asset to qualify as an eligible fishing asset.

In addition, like the rule that applies regarding an eligible farm asset, the amount included in calculating the business income of an individual, following the alienation of an intangible immovable that is an eligible fishing asset, will be a taxable capital gain for the purposes of the capital gains exemption relating to an eligible fishing asset.

For greater clarity, the cumulative total of exemptions of capital gains from the alienation of farm assets, shares of a corporation carrying on a small business and fishing assets may not exceed \$500 000, taking into account the former exemption of \$100 000, if need be.

Furthermore, the available capital gains exemption will be calculated in accordance with currently applicable rules. Accordingly, the exemption of capital gains realized upon the alienation of eligible fishing assets will be reduced by the amount of the individual's cumulative net investment loss as well as his net capital losses of other years.

Lastly, in order to benefit from this measure, an individual must satisfy the general eligibility conditions for the existing capital gains exemptions, for instance he must have declared the gain realized upon the alienation of an eligible fishing asset in his tax return filed for the year in which the gain was realized.

This change will apply regarding capital gains relating to an eligible fishing asset alienated after the date of publication of this information bulletin.