

2008-2009 BUDGET

Additional Information on the Budgetary Measures

March 13, 2008



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2008-2009 Budget

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Additional Information on the Budgetary Measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Simplification and improvement of the tax assistance granted for home support for elderly persons

Since January 1, 2000, the tax system has granted people 70 or over financial assistance in the form of a refundable tax credit, to make it easier for them to remain in their home and, as a result, avoid or delay having to take up residence in a facility of the public health and social services network.

This tax credit, worth up to \$3 750 a year, is equal to 25% of eligible expenses paid by seniors for certain recognized home support services.

In general, the expenses eligible for the tax credit correspond to the amounts paid by seniors for recognized home support services provided by an entrepreneur (e.g. a residence for elderly persons or a social economy business) or by an employee of theirs, excluding the cost of the food, beverages, materials or other property acquired by them in connection with the provision of the service.

When seniors rent a dwelling unit (room, studio or apartment) and the rent includes the cost of several recognized home support services in addition to the cost of the dwelling, the portion of the rent attributable to the services may constitute an expense eligible for the tax credit if it is reasonable, in respect of the rent, and identified in writing by the lessor. The portion of the expenses arising from the divided co-ownership of an immovable that is relative to recognized home support services may also be an expense eligible for the tax credit.

The amount of expenses eligible for the tax credit is subject to an annual limit of \$15 000 per senior.

The table below specifies the expenses eligible for the tax credit, according to whether the recognized home support services are provided to seniors by an entrepreneur or by their own employee.

TABLE A.1

Expenses eligible for the tax credit

Services provided by an entrepreneur	Services provided by an employee
The amounts paid for the recognized services provided, including the goods and services tax and the Québec sales tax.	The employee's salary or wages for the recognized services provided, as well as the employer contributions ¹ and payroll management expenses attributable to the remuneration.

¹ The contributions payable under the *Act respecting the Québec Pension Plan*, the *Act respecting parental insurance*, the *Employment Insurance Act* and the *Act respecting the Régie de l'assurance maladie du Québec*.

Two types of home support services are recognized for the purposes of the application of the tax credit: personal support services and maintenance or supply services.

Personal support services are those provided to seniors that are essential to their remaining at home or that enable them to remain at home, while maintenance or supply services are those provided in respect of a dwelling (e.g. a unit in a residence for elderly persons, or a single-family home) or land on which the dwelling is situated.¹

¹ The dwelling in question must be the principal place of residence of the individual claiming the tax credit, and the individual or the individual's spouse must be the owner, lessee or sublessee of the dwelling.

The table below lists the home support services that are recognized for the purposes of the application of the tax credit.

TABLE A.2

Recognized home support services

Personal support services	Maintenance or supply services
A non-professional assistance service to enable an individual to perform an activity of daily living (services related to personal hygiene, dressing, eating and mobility or transfers).	A housekeeping service (e.g. housekeeping of living areas, maintenance of appliances, cleaning of rugs and upholstered furniture and cleaning of air ducts, when they do not have to be dismantled).
A meal preparation ¹ or delivery ² service.	Care of clothing and household linens. ⁴
A non-specialized supervision service (e.g. a night supervision, or companion sitting service).	An everyday necessities supply service (e.g. a grocery delivery service).
A nursing service.	
A support service to enable an individual to fulfil duties or civic obligations (e.g. accompaniment on outings, budget management and assistance in filling out forms other than a tax form ³).	A maintenance service consisting of minor maintenance work performed outside of a dwelling, including work to be performed ordinarily every year because of the change in seasons (e.g. grass cutting, pool maintenance, cleaning of windows and gutters, chimney sweeping, snow removal, installation and removal of seasonal shelters, and garbage removal by the caretaker).
	A maintenance service consisting of minor maintenance work performed inside an immovable is considered a maintenance or supply service, where the work is related to a facility, such as a pool, which, by reason of its nature or intended use, could have been located outside the immovable.

- 1 Where the cost of the service is not included in rent, namely, a service that consists in helping an individual prepare meals in a dwelling that is the individual's principal place of residence, or a meal preparation service provided by a community organization established and operated exclusively for non-profit purposes.
- 2 A service that consists in delivering meals from the kitchen of a residence for elderly persons to an apartment or room in the residence, or a meal delivery service provided by a community organization established and operated exclusively for non-profit purposes.
- 3 Unless it is a form to request advance payments of the tax credit.
- 4 Does not include a service provided by an entrepreneur whose principal business consists in providing dry cleaning, laundering, pressing and related services, unless the service is provided on behalf of an individual, at the residence for elderly persons where the individual lives.

As part of the March 23, 2006 Budget Speech, significant changes were announced with respect to the refundable tax credit for home support for elderly persons, in order to simplify the procedure for obtaining the credit, increase access to the credit and provide more assistance to seniors who have substantial expenses.

Whereas the tax credit had always been paid in advance through the service employment paycheque arrangement, it can now be claimed on the income tax return. However, it is still possible to receive the tax assistance during the year by asking Revenu Québec for advance payment of the tax credit.

Advance payment of the tax credit has very concrete effects for seniors, in particular for those who live in a residence with services. In that case, the amounts received in advance are often used to pay the rent charged by the residence to occupy a dwelling unit (room, studio or apartment) and take advantage of the services offered (e.g. meal preparation service, nursing service).

In recent months, Revenu Québec conducted validation activities in conjunction with the processing of advance payment requests from seniors, in order to ensure that the application details of the tax credit had been properly understood and that everyone had met their obligations and received the amount to which they were entitled.

In some cases, Revenu Québec questioned the accuracy of the amount of eligible expenses included in rent, as determined by the owners of residences for elderly persons. This led to a reduction in the amounts payable in advance. The inaccuracy of the amount determined by certain residence owners stemmed essentially from differences between their and Revenu Québec's interpretation of how to determine the amount of eligible expenses.

These events were obviously very troubling to seniors. Nevertheless, they showed the necessity of simplifying the method for determining the amount of eligible expenses included in rent, so that the amount could be established according to rules that were no longer be open to interpretation. In this way, there would be a much smaller risk of having to recover advance payments from seniors solely because the amount of eligible expenses included in rent had been miscalculated.

In this context, rules will be introduced to simplify the determination of the amount of eligible expenses included in rent and new formalities will be established concerning requests for advance payments with regard to such expenses, so as to avoid having to recover these payments as much as possible.

These new rules will be applicable as of 2008. However, as regards advance payments of the tax credit, they will be applicable to payments relating to rent payable after June 30, 2008.

If, because of the application of these new rules, low-income seniors living in a residence for elderly persons or other apartment building receive less tax assistance than they were used to receiving in advance, they will be able to receive non-taxable financial compensation² under the Transitional Financial Compensation Program for Seniors Living in a Residence or in Rental Housing, 3 to be implemented by the government as of 2008.

For greater clarity, these new simplification rules will not apply to the determination of the amount of eligible expenses included in expenses arising from co-ownership, as the method for calculating this amount, which is based primarily on expenses paid to third parties by the syndicate of co-owners, is relatively simple.

Several other changes will also be made, as of the 2008 taxation year, with regard to the tax assistance for home support for elderly persons.

Some of the changes will mean an increase in the assistance granted to seniors so that they can remain at home and recognition of their conjugal status for the purposes of calculating the assistance.

The other changes will improve the distribution of home support assistance by directing it to less well-off households, and lead to greater fairness by ensuring the integrity of the tax credit for medical expenses and uniform treatment of certain home support expenses.

The table below gives an overview of the principal amendments that will be made to the tax legislation as of 2008.

TABLE A.3

Overview of the principal amendments that will be made to the tax legislation regarding home support for elderly persons

Improvement of the basic parameters of the refundable tax credit for home support for elderly persons	
<ul style="list-style-type: none"> – Increase from 25% to 30% in the rate of the tax credit – Increase in the eligible expenses limit from \$15 000 to \$15 600 for individuals not recognized as dependent seniors – Increase in the eligible expenses limit from \$15 000 to \$21 600 for dependent seniors 	
Reduction of the tax credit on the basis of family income in excess of \$50 000	
Simplification of the method for determining the amount of eligible expenses included in rent	
New formalities concerning requests for advance payments of the tax credit	
Restriction on the eligibility of certain expenses for the tax credit for medical expenses	

- 2 For greater clarity, the amount of financial compensation will not have to be included in the calculation of seniors' income.
- 3 This program is presented in subsection 5.1 of section B of *Additional Information on the Budgetary Measures*, which deals with expenditure measures.

1.1.1 Improvement of the basic parameters of the tax credit for home support for elderly persons

To enhance the tax assistance for home support for elderly persons, the rate of the refundable tax credit for home support for elderly persons will be raised from 25% to 30%.

The annual eligible expenses limit for seniors will be increased from \$15 000 to \$15 600. However, the increase in the annual eligible expenses limit for dependent seniors will be much more substantial, from \$15 000 to \$21 600.

Individuals will be entitled to the annual eligible expenses limit for dependent seniors for a given year if, according to a written attestation from a physician, they depend and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of their needs and personal care, or they need constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity.

In this regard, the needs and personal care of seniors will cover only personal hygiene, dressing, eating and mobility or transfers.

As a result of these improvements, seniors who have substantial home support expenses will see their tax assistance increase by more than \$900 a year, as the maximum amount of the tax credit will be raised from \$3 750 to \$4 680. The increase in the tax assistance for dependent seniors will be up to \$2 730 a year, as the maximum amount of the tax credit will be raised from \$3 750 to \$6 480.

1.1.2 Clarifications concerning expenses incurred by spouses

Individuals in couples often manage their household expenses, such as rent, jointly. As a result, expenses incurred by one spouse are often paid by the other.

Since January 2007, the practice has always been to recognize, in accordance with tax policy, that an expense attributable to a recognized home support service provided to an individual 70 or over and paid for by the individual's spouse, regardless of the latter's age, qualifies as an eligible expense for the individual for the purposes of calculating the refundable tax credit for home support for elderly persons.

Accordingly, to better recognize the conjugal status of individuals 70 or over, the definition of "eligible expense" made by an individual in a year will be clarified to also cover an amount paid in the year by a person who is the individual's spouse when the amount is paid.

Moreover, special rules will be introduced to calculate the maximum amount of the tax credit to which individuals 70 or over are entitled for a year, where, during that year, they were each other's spouse.

□ Seniors who are eligible spouses at the end of a year

Where a senior entitled to the tax credit for a given year is the eligible spouse⁴ of another senior who is also entitled to the tax credit for the year, only one of them may claim the tax credit for the household, and the maximum amount that person may claim for the year must be calculated in accordance with the following rules:

- the person must take into account, in the calculation of his or her eligible expenses for the year, those of the eligible spouse for the year that have not already been included in the calculation;
- the annual eligible expenses limit applicable to the person for the year will be deemed equal to the total of his or her annual limit otherwise applicable and that of his or her eligible spouse for the year.

For example, on July 1, 2008, Alan Thompson and Lorna Paul leave their respective dwellings to move into a new dwelling together following their marriage. Before living together, Mr. Thompson's and Ms. Paul's eligible expenses total \$5 650 and \$5 400, respectively. For the last six months of the year, Mr. Thompson pays \$7 200 in eligible expenses.

In such a case, the tax credit for 2008 may be claimed by either Mr. Thompson or Ms. Paul. The amount of the eligible expenses of the person who claims the tax credit will be equal to \$18 250, that is, the total of the eligible expenses incurred before July 2008 by Mr. Thompson and Ms. Paul and of those incurred by their household in the last six months of the year. The full amount of \$18 250 may be taken into account for the purposes of calculating the tax credit, as the amount is below the eligible expenses limit applicable for the year—\$31 200, or twice the basic annual limit.

4 The person who is the eligible spouse for the year for the purposes of the transfer of the unused portion of non-refundable tax credits from one spouse to the other. In general, for the purposes of the transfer, the eligible spouse of an individual for a given year is the person who is the individual's spouse at the end of the year and who, at that time is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual's spouse during the year, where that person died during the year and, at the time of death, was the individual's spouse and was not living separate and apart from the individual.

❑ Eligible expenses paid by spouses who separate during a year

Where two seniors entitled to the tax credit for a given year cease living together during the year because of the breakdown of their union,⁵ the amount of eligible expenses paid during the period they lived together that may be included in the calculation of their respective eligible expenses for the year may not exceed the amount that would have been included had only one of them been entitled to include it in his or her eligible expenses.

If the individuals concerned do not agree on the amount that may be included in the calculation of their respective eligible expenses, the Minister of Revenue will determine for them the amount that may be included.

For example, on September 1, 2008, Leonard Lansdown and Margaret Grant leave the dwelling they share to move into separate dwellings following their separation. Before the separation, Mr. Lansdown and Ms. Grant's combined eligible expenses totalled \$9 600. For the last four months of the year, Mr. Lansdown's and Ms. Grant's eligible expenses totalled \$2 860 and \$3 000 respectively.

In such a case, Mr. Lansdown and Ms. Grant must claim their tax credit separately. The amount of eligible expenses incurred before the couple's separation (i.e. \$9 600) must be split between the former spouses as agreed by them. Consequently, if the former spouses agree that Ms. Grant is to take the full amount of \$9 600, her eligible expenses for the year will be \$12 600, whereas Mr. Lansdown's will be \$2 860. The former spouses could just as easily agree to split the amount of \$9 600 equally between them, with Ms. Grant and Mr. Lansdown each adding \$4 800 to his or her eligible expenses. In that case, Ms. Grant's eligible expenses will total \$7 800, and Mr. Lansdown's, \$7 660.

1.1.3 Reduction on the basis of family income

To distribute the tax assistance for home support for elderly persons more fairly by ensuring that wealthier people contribute more to their home support expenses, the maximum amount of an individual's tax credit will be reduced on the basis of his or her family income, that is, the individual's income plus, as the case may be, that of the person who is the individual's eligible spouse for the year.⁶

The reduction rate will be 3% on every dollar of family income that exceeds an annual threshold of \$50 000, which, like the main parameters of the personal income tax system, will be indexed automatically each year⁷ as of January 1, 2009.

5 Provided their separation lasts for a period of at least 90 days that includes the date on which they cease living together.

6 *Supra*, note 4.

7 For greater clarity, where the indexation amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

1.1.4 Simplification of the calculation of the amount of expenses eligible for the tax credit

To simplify the method for determining the amount of eligible expenses included in rent, while improving the reliability of the amount established in this regard, new rules, which differ depending on whether rent is paid to live in a residence for elderly persons or in another type of immovable, will be introduced.

Accessory rules will also be provided for to determine which expenses paid over and above rent may be taken into account in calculating the tax credit.

❑ Determination of eligible expenses for seniors living in a residence for elderly persons

In the case of seniors who pay rent to live in a residence for elderly persons, rules will be introduced to determine the amount of eligible expenses included in rent and to determine the categories of recognized home support services that, when provided to an individual for an amount not included in rent, will give entitlement to the tax credit.

For the purposes of the application of these rules, a residence for elderly persons is a congregate residential facility where dwelling units (rooms, studios or apartments) intended for elderly persons are offered for rent along with a varied range of services relating, in particular, to security, housekeeping assistance and assistance with social activities, except:

- a facility maintained by a public or private institution under agreement that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre contemplated by the *Act respecting health services and social services*;
- a facility maintained by a hospital centre or a reception centre that is a public institution for the purposes of the application of the *Act respecting health services and social services for Cree Native persons* or that made a contract or an agreement under section 176 of 177 of that Act;
- a building or a residential facility where the services of an intermediate resource or a family-type resource within the meaning of the *Act respecting health services and social services*⁸ are offered, or a foster family contemplated by the *Act respecting health services and social services for Cree Native persons*.

8 Intermediate resources and family-type resources are resources with which an institution in the public health and social services network has a contractual relationship. Briefly, these resources take in or lodge users registered for these services in order to provide them with a living environment adapted to their needs. They provide the users with the support and assistance services required by their condition and offer them living conditions similar to those of their natural environment.

■ **Eligible expenses included in rent paid to live in a residence for elderly persons**

As of 2008, individuals who pay rent to live in a residence for elderly persons must determine the amount of their eligible expenses included in rent using the table for determining expenses that is applicable to them, according to whether they live alone in the dwelling unit in which they are lessees or sublessees, or whether they are co-lessees with a person other than their spouse or share the dwelling only with their spouse.

No portion of rent other than that which is determined using the applicable table may be considered an eligible expense for the purposes of the calculation of the tax credit.

To facilitate their use, the tables for determining expenses take into account the terminology of the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, the content of which is given in Schedule 6 to the *Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee*, and which must necessarily be included with the lease form for the dwelling. The lease form is reproduced in Appendix 1.

Briefly, the tables assign a value to the various recognized home support services that are offered by residences for elderly persons and that lessees (or sublessees) agree to pay in the total rent.

However, the aggregate of the values attributed for a given month to the various services provided to a senior by the residence in which the senior lives may not exceed 75% of the total rent paid to the residence for that month, in the case of a dependent senior,⁹ or 65% in other cases.

9 As mentioned in subsection 1.1.1, dependent seniors are individuals who, according to a written attestation from a physician, depend and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of their needs and personal care, or who require constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity.

To this end, total rent is the rent for the dwelling unit indicated on the copy of the lease or, in the case of an oral lease, on the writing given to the lessee, to which is added, where applicable, additional rent for special services,¹⁰ taking into account, if the lease was renewed, the changes made to the rent for the dwelling unit and, where applicable, the additional rent. The total rent appears on the last page of the completed form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”.¹¹

Where the total rent is set for a term other than a month (e.g. a week), it must be converted to correspond to the total rent payable for a month.

▪ **Table for Determining Expenses on an Individual Basis**

The Table for Determining Expenses on an Individual Basis is intended for seniors who, for a given month, are lessees or sublessees of a dwelling unit in which they live alone or only with a person they lodge.

It is also intended for seniors who, for a given month, are co-lessees of a dwelling unit with a person who is not their spouse. To this end, seniors will be deemed to be co-lessees of the dwelling unit in which they live if their spouse is co-lessee of the dwelling.

Furthermore, where seniors are (or are deemed to be) co-lessees of a dwelling unit, their total monthly rent will be equal to the amount obtained by dividing the total monthly rent payable for the unit by the number of co-lessees in the unit.

10 Total of the amounts indicated in the second column of the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”.

11 Subject to the modifications that may have been made since the conclusion of the initial lease.

TABLE A.4

Table for Determining Expenses on an Individual Basis

	Total monthly rent		
	Equal to or less than \$1 000	More than \$1 000 without exceeding \$2 000	More than \$2 000
	Amount (\$)	Applicable rate (%)	Amount (\$)
Home support services			
- Basic component	150	15	300
- Laundry service (service for the care of clothing and household linens)	50	5	100
- Housekeeping	50	5	100
- Food service (meal preparation or delivery service)			
▪ Two meals a day	150	15	300
▪ Three meals a day	200	20	400
- Nursing service	100	10	200
- Personal care service (non-professional assistance service)			
▪ Base	100	10	200
▪ Supplement for a dependent senior ¹	100	10	10% of total monthly rent
Maximum established on the basis of total monthly rent			
- General	65%	65%	65%
- Dependent senior ¹	75%	75%	75%

1 An individual will be considered a dependent senior if, according to a written attestation from a physician, the individual depends and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of his or her needs and personal care, or the individual requires constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity. In this regard, the needs and personal care of seniors cover only personal hygiene, dressing, eating and mobility or transfers.

To determine the amount of eligible expenses included in their total monthly rent, seniors must first establish the maximum value of their eligible expenses by adding, to the value of the basic component granted to all seniors who pay rent to a residence, the value of the various components relative to the services they receive, as indicated on the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, which completes the lease for their dwelling unit.

However, where the form is not filled out for a dwelling unit, the maximum value of the eligible expenses included in the total monthly rent of an individual who is a lessee, co-lessee or sublessee will be equal to the value of the basic component in his or her regard.

After determining the maximum value of the eligible expenses included in their total monthly rent, seniors must compare that value with the amount obtained by applying the percentage of 65% or 75%, as applicable, to their total monthly rent. The lower of the two amounts will be the amount of eligible expenses included in their rent for the purposes of calculating the tax credit.

For example, an elderly woman was, for a given year, the lessee of a room in a residence for elderly persons that provided her with a housekeeping service, three meals a day and a nursing service for a total monthly rent of \$930 for the first six months of the year, and of \$950 for the last six months.

Given that the total monthly rent for each month in the year was less than \$1 000, the maximum value of the eligible expenses included in the elderly woman's total monthly rent, taking into account the services she received, is \$500¹² a month. Since, for each month in the year, this value is lower than 65% of her total monthly rent, it represents the monthly amount of eligible expenses included in her rent for the purposes of the calculation of the tax credit.

▪ **Table for Determining Expenses on a Household Basis**

The Table for Determining Expenses on a Household Basis is intended for persons who, for a given month, are lessees, co-lessees or sublessees of a dwelling unit they share solely with their spouse. To this end, seniors will be deemed to be lessees of the dwelling unit in which they live if their spouse is lessee.

12 The value of the monthly basic component applicable to her (\$150), plus the value of a housekeeping service (\$50), a food service providing three meals a day (\$200) and a nursing service (\$100).

TABLE A.5

Table for Determining Expenses on a Household Basis

	One eligible spouse ¹			Eligible couple		
	Applicable rate (%) ²	Minimum amount (\$)	Maximum amount (\$)	Applicable rate (%) ²	Minimum amount (\$)	Maximum amount (\$)
Home support services						
– Basic component	10.5	150	300	10.5	150	300
– Laundry service (service for the care of clothing and household linens)	3.5	50	100	5	75	100
– Housekeeping	3.5	50	100	3.5	50	100
– Food service (meal preparation or delivery service)						
▪ Two meals a day	10.5	150	300	21	300	600
▪ Three meals a day	13.5	200	400	27	400	800
– Nursing service	7	100	200	7	100	200
– Personal care service (non-professional assistance service)						
▪ Base	7	100	200	14	200	400
▪ Supplement for a dependent senior ³	7	100	7% of total monthly rent	7 ⁴	200	7% ⁴ of total monthly rent
Maximum established on the basis of total monthly rent						
– General		65%	65%		65%	65%
– Dependent senior ³		75%	75%		75%⁵	75%⁵

1 In a given month, only one of the spouses is 70 or over.

2 The rate must be applied to the total monthly rent for the dwelling unit.

3 An individual will be considered a dependent senior if, according to a written attestation from a physician, the individual depends and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of his or her needs and personal care, or the individual requires constant supervision because of a serious mental disorder characterized by an irreversible breakdown in thought activity. In this regard, the needs and personal care of seniors cover only personal hygiene, dressing, eating and mobility or transfers.

4 If both spouses are dependent seniors, the rate will be 14%.

5 If one of the spouses is a dependent senior, the rate of 75% will apply automatically.

Where only one of the spouses is 70 or over during the month for which the total monthly rent is paid, the table must be read without taking into account the section applicable to eligible couples. Conversely, if both spouses are 70 or over during the month for which the total monthly rent is paid, the table must be read without taking into account the section applicable to one eligible spouse.

In both of these cases, the total monthly rent will be that which is paid for the dwelling unit, regardless of which spouse pays the rent or the way in which the rent is split between them.

To determine the amount of eligible expenses included in the total monthly rent, seniors¹³ must first establish, in accordance with the table, the maximum value of their eligible expenses by adding, to the value of the basic component, the value of the various components relative to the services received by their household, as indicated on the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, which completes the lease for their dwelling unit.

However, where the form is not filled out for a dwelling unit, the maximum value of the eligible expenses included in the total monthly rent will be equal to the value of the basic component, taking into account the minimum and maximum amounts in this regard.

After determining the maximum value of the eligible expenses included in their total monthly rent, seniors must compare that value with the amount obtained by applying the percentage of 65% or 75%, as applicable, to their total monthly rent. The lower of the two amounts will be the amount of eligible expenses included in their rent for the purposes of calculating the tax credit.

For example, a couple composed of two seniors 70 or over was the lessee, throughout a given year, of an apartment in a residence for elderly persons that provided them with a housekeeping service, two meals a day, a nursing service and a personal care service for a total monthly rent of \$2 500 for the first six months of the year, and of \$2 550 for the last six months.

For each of the items in the table related to a service received by the couple (including the basic component), the rate for the service should be applied to the total monthly rent, and the result thus obtained should be compared with the minimum and maximum amounts for the service and adjusted, as necessary, so that it is never below the minimum amount or above the maximum amount.

As shown in the table below, the maximum value of eligible expenses will be \$1 400 for each of the first six months in the year and \$1 428 for each of the other six months. Given that each of these amounts is less than the amount representing 65% of the total monthly rent payable (\$1 625 for the first six months, that is, 65% of \$2 500, and \$1 657.50 for the last six months, that is, 65% of \$2 550), the amount of eligible expenses included in the total rent will be \$16 968 for the year.¹⁴

13 As mentioned in subsection 1.1.2, where a senior entitled to the tax credit for a given year is the eligible spouse of another senior who is also entitled to the tax credit for the year, only one of them may claim the amount for the household.

14 Aggregate of the maximum value of the eligible expenses for the first six months in the year (\$8 400) and of the maximum value of the eligible expenses for the other six months (\$8 568).

TABLE A.6

Example of the determination of the maximum value of eligible expenses
(dollars)

	On the basis of the rate	Minimum amount	Maximum amount	Amount established
First six months¹				
- Basic component	262.50	150	300	262.50
- Housekeeping	87.50	50	100	87.50
- Food service: 2 meals a day	525	300	600	525
- Nursing service	175	100	200	175
- Basic personal care service	350	200	400	350
Total				1 400
Last six months²				
- Basic component	267.75	150	300	267.75
- Housekeeping	89.25	50	100	89.25
- Food service: 2 meals a day	535.50	300	600	535.50
- Nursing service	178.50	100	200	178.50
- Basic personal care service	357	200	400	357
Total				1 428

1 The total monthly rent is \$2 500.

2 The total monthly rent is \$2 550.

▪ **Description of the items in each of the tables for determining expenses**

An individual may take into account, for a given month, an item in the applicable table for determining expenses, other than the basic component, if the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, which completes the lease for his or her dwelling unit, indicates that:

- in the case of a laundry service, it is provided for bedding or clothing at least once a week, for the rent for the dwelling indicated in the lease or for additional rent (page 2 of the schedule to the lease);
- in the case of a housekeeping service, it is provided at least once a week, for the rent for the dwelling indicated in the lease or for additional rent (page 2 of the schedule to the lease);
- in the case of a food service, at least two of the three meals (breakfast, lunch and dinner) are included in the rent for the dwelling indicated in the lease or covered by additional rent (page 4 of the schedule to the lease);

- in the case of a nursing service, a professional nurse is present at least 7 hours a day, for the rent for the dwelling indicated in the lease or for additional rent (page 5 of the schedule to the lease);
- in the case of a personal care service, a personal care attendant is present at least 7 hours a day, for the rent for the dwelling indicated in the lease or for additional rent (page 5 of the schedule to the lease, in the section “Nursing and personal care service — other”).

■ **Other details**

Seniors may take into account, in the calculation of their expenses eligible for the tax credit for a given year, the amount of eligible expenses included in the rent paid to a residence for elderly persons, provided they include with their income tax return for the year a copy of the lease for their dwelling unit (or the written notice given to the lessee, in the case of an oral lease), a copy, where applicable, of the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, as well as a copy of any notice of modification of the lease or of any judgment fixing the rent.

However, the obligation to include these documents with the income tax return will be considered to have been met if they were sent to Revenu Québec in support of a request for advance payments of the tax credit.

Lessors of a dwelling unit in a residence for elderly persons will no longer have to file the information return relative to the tax credit for home support for elderly persons (TP-1029.MD.5-V) respecting any lease concluded or renewed after the day of the budget speech.

■ **Eligible expenses not included in the rent paid to live in a residence for elderly persons**

Where an individual pays an amount as total rent to a residence for elderly persons for a given period in a year (month, week or other period in accordance with the term of total rent) and, during that period, he or she pays an amount in addition to the total rent in order to receive a recognized home support service, the individual may not include any portion of that amount in the calculation of expenses eligible for the tax credit for the year, unless the amount was paid:

- to the residence for elderly persons or a related person, in order to receive a nursing service or personal care service (non-professional assistance service);

- to a person or a partnership other than the residence for elderly persons or a related person, in order to receive a nursing service, personal care service (non-professional assistance service), meal preparation¹⁵ or delivery¹⁶ service, or a housekeeping service for living areas, including a clothing care service¹⁷ that is provided along with it.

Regarding personal care services (non-professional assistance services), the tax legislation will be amended to specify that such services relate only to personal hygiene, dressing, eating and mobility or transfers with respect to individuals who, because of their condition, do not have the autonomy required to care fully for themselves.

It follows that seniors who go to a hair salon (outside or inside the building in which they live) may not include, in the calculation of their expenses eligible for the tax credit, the amount paid for the hairstyling service obtained. Nor may they do in the case of such a service provided in the dwelling unit by any person who is not a personal care attendant (for example, expenses paid to have a hairstylist come to a senior's home will not be eligible).

❑ Determination of eligible expenses for seniors living in an apartment building

Seniors who rent a dwelling unit elsewhere than in a residence for elderly persons may also have eligible expenses included in their rent.

As of 2008, new rules will apply to determine the amount of eligible expenses included in rent, where the rent is paid by a senior to live in a building other than a residence for elderly persons¹⁸ or a component of the public health and social services network,¹⁹ hereinafter referred to as an “apartment building.”

15 A service that consists in helping an individual prepare meals in a dwelling unit that is the individual's principal place of residence, or a meal preparation service provided by a community organization established and operated exclusively for non-profit purposes.

16 A meal delivery service provided by a community organization established and operated exclusively for non-profit purposes.

17 Does not include a service provided by an entrepreneur whose principal business consists in providing dry cleaning, laundering, pressing and related services.

18 This expression has the same meaning as under the application of the rules relative to the determination of the amount of eligible expenses included in the rent paid to live in a residence for elderly persons.

19 Facilities, buildings or residential facilities excluded from the definition of “residence for elderly persons” will be considered to be components of the public health and social services network.

■ Eligible expenses included in rent

■ Calculation method

Where seniors pay rent to live in an apartment building, the amount of eligible expenses included in rent must be determined by applying a rate of 5% to the monthly rent for the dwelling unit of which they are lessees, co-lessees or sublessees, to a maximum monthly rent of \$600.

No portion of the rent other than the portion thus determined may be considered an expense eligible for the tax credit.

Since this new method is based on the monthly rent for a dwelling unit, where the rent is set for a term other than a month (e.g. a week), it must be converted to correspond to the rent that would be payable for a month.

■ Application rules

To take into account situations in which seniors live in a dwelling unit with their spouse but are not lessees, co-lessees or sublessees, various rules will be provided for to determine the amount of the seniors' eligible expenses included in the rent for the dwelling unit they live in.

Thus, where a senior lives, in a given month, in a dwelling unit of which the senior's spouse is co-lessee with another person, the senior will be deemed to be co-lessee of the unit for the given month.

In all cases where seniors are (or are deemed to be) co-lessees of a dwelling unit, their monthly rent will be equal to the amount obtained by dividing the monthly rent payable for the unit by the number of co-lessees in the unit. In addition, the maximum amount applicable to the rent (\$600 a month) must be reduced proportionately.

For example, Esther and Judith Gordon are co-lessees of a dwelling unit in an apartment building; their rent is \$750 a month. In such a case, each of them may include \$15 a month, that is, 5% of the maximum \$300,²⁰ in the calculation of her expenses eligible for the tax credit.

If, in a given month, a senior shares a dwelling unit only with his or her spouse, who is the lessee of the unit, the senior will be deemed to be the lessee of the unit for that month. In such a case, the monthly rent for the dwelling unit will be that which is paid for the unit, regardless of which spouse pays the rent or the way in which the rent is split between them.

²⁰ Eligible expenses must be calculated on \$300, because the portion of rent (\$375) exceeds the maximum amount ($\$600 \div 2$).

■ **Administrative details**

Seniors may take into account the amount of eligible expenses included in the rent paid to live in an apartment building, in the calculation of their expenses eligible for the tax credit for a given year, only if they include with their income tax return for the year a copy of the lease for their dwelling unit (or the written notice given to the lessee, in the case of an oral lease), as well as a copy of any notice of modification of the lease or of any judgment fixing the rent.

However, the obligation to include these documents with the income tax return will be considered to have been met if they were sent to Revenu Québec in support of a request for advance payments of the tax credit.

Lessors of a dwelling unit in an apartment building will no longer have to file the information return relative to the tax credit for home support for elderly persons (TP-1029.MD.5-V) respecting any lease concluded or renewed after the day of the budget speech.

■ **Eligible expenses not included in rent**

Where an individual pays an amount as rent for a given period in a year to the lessor of an apartment building and, during that period, the individual pays an amount in addition to his or her rent for a recognized home support service, the individual may include the amount thus paid, in the calculation of his or her expenses eligible for the tax credit for the year, except any portion of the amount that is attributable to food, beverages, materials or other property.

1.1.5 Advance payments of the tax credit

Seniors may request, on the prescribed form, that advance payments of the refundable tax credit for home support for elderly persons be granted to them respecting their eligible expenses in a given year.

In the coming weeks, Revenu Québec will prepare a new advance payment request form that takes into account the changes to the tax credit. Seniors will be informed as soon as it becomes available.

Seniors who, after the day of the budget speech, wish to take advantage for the first time of the opportunity to receive advance payments of the tax credit must send their request to Revenu Québec on the new form, which, if the request concerns eligible expenses included in rent, must be accompanied by the following documents:

- a copy of the lease for the dwelling unit for which the rent is paid or, in the case of an oral lease, the written notice given to the lessee;

- a copy, as applicable, of the form “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”;
- a copy of any notice of modification of the lease or of any judgment fixing the rent.

The same is true for people who wish to renew their request for advance payments.

In the case of an elderly couple in which both spouses are entitled to the tax credit, the request for advance payments may be submitted by only one of the spouses.

As of 2008, all requests for advance payments for a given year must be submitted no later than December 1 of that year.

Given the time required to put in place the appropriate administrative systems, the first advance payment of the tax credit on the basis of its new parameters²¹ will not be made before the end of June 2008.

Seniors who were already registered for advance payments of the tax credit with respect to eligible expenses included in their rent will continue to receive, as their monthly advance payment, the same amount as in January and February, until their new request is processed.

However, for seniors who were not already registered for advance payments of the tax credit, the first payment will cover the amount of the tax credit estimated for the period beginning on January 1, 2008 and ending on the first day of the month following the first payment.

Seniors who receive regular advance payments of the tax credit are required to diligently inform Revenu Québec of any change in their situation likely to reduce the advance payments to which they are entitled (e.g. a reduction in rent, a change in the services received from the residence for elderly persons they live in, the breakdown of their union or an inaccurate estimate of their family income).

Moreover, when seniors file their income tax return for the year, the total of the amounts paid in advance must be reconciled with the amount of the tax credit to which they are entitled for the year. If an amount becomes payable to the Minister of Revenue further to the reconciliation, the senior and, as the case may be, the senior's eligible spouse for the year become solidarily liable for the payment of the amount.

21 For greater clarity, Revenu Québec must take into account, in calculating amounts that may be paid in advance, the reduction applicable on the basis of family income in excess of \$50 000 (in 2008).

In this regard, no amount will be considered to be owing to the Minister of Revenue if it is attributable to financial compensation provided for under the Transitional Financial Compensation Program for Seniors Living in a Residence or in Rental Housing.²²

Where a senior owes an amount under this program but is entitled to a refund further to the application of a fiscal law (e.g. a tax refund), the refund may be applied to the payment of the senior's debt.

1.1.6 Restriction on the eligibility of certain expenses for the tax credit for medical expenses

The tax system grants a non-refundable tax credit to individuals who must assume medical costs for health reasons, in order to alleviate their financial burden.

Individuals who pay eligible medical expenses for themselves, their spouse and dependants may therefore deduct, in the calculation of their income tax otherwise payable, an amount equal to 20% of the portion of the expenses that exceeds 3% of their family income.

The tax credit for medical expenses covers a multitude of health expenses and assists, in particular, people who have specific needs stemming from, among other things, a disability or a severe and prolonged impairment in physical or mental functions.

In general, where handicapped people have needs requiring them to receive care provided at a school, institution or other place, the amounts paid for the care thus provided may be eligible for the tax credit for medical expenses.

In addition, even if a person does not need such specialized care but must occasionally seek the care of a part-time attendant because of a disability, the amounts paid as remuneration to the attendant may give entitlement to the tax credit, to a maximum of \$10 000 (\$20 000 for the year of death).

Expenses relative to the remuneration of a part-time attendant may also constitute expenses eligible for the refundable tax credit for home support for elderly persons, which is intended for people 70 or over. However, for these expenses to give entitlement to the tax credit, they must not have been taken into account in the calculation of the tax credit for medical expenses.

Currently, the legislative provision that recognizes amounts paid for care provided at a school, institution or other place as eligible medical expenses does not ensure the integrity of the tax credit for medical expenses.

22 This program is presented in subsection 5.1 of section B of *Additional Information on the Budgetary Measures*, which deals with expenditure measures.

Furthermore, in the case of seniors 70 or over, the co-existence of two types of assistance for expenses relative to the remuneration of a part-time attendant can cause undesirable inconsistencies in the treatment of the expenses.

Accordingly, various changes will be made to the tax credit for medical expenses in order to ensure its integrity and enable uniform treatment of expenses relative to the remuneration of a part-time attendant for seniors 70 or over.

☐ Care provided at a school, institution or other place

Under current rules, individuals may include, in the calculation of their expenses eligible for the tax credit for medical expenses, the amounts paid by them or by their legal representative or their spouse for the care, or the care and training, at a school, institution or other place, hereinafter called a “specialized place”, of a particular person, if the particular person has been certified by a qualified person to be a person who, by reason of a physical or mental handicap, requires the equipment, facilities or personnel specially provided by that school, institution or other specialized place for the care, or the care and training, of persons suffering from such a handicap.

The primary objective of these rules is to grant tax relief for amounts paid for care and training that, given their highly specialized nature, are provided only at places created for that purpose.

Although the role of the tax credit for medical expenses is not to grant tax assistance for regular living expenses such as accommodation and food, such expenses may, on rare occasions, be eligible for the tax credit if they are inextricably linked to a specific need related to a handicap.

Consequently, they can be included in the amounts paid for care and training at a school, institution or other specialized place if the handicapped person is required to stay there to receive the services.

However, over time, the scope of these rules extended well beyond the foreseeable limits. In fact, the Provincial Court (now the Court of Québec) concluded in one of its judgments²³ that a residence for elderly persons could be considered a specialized place for the purpose of the application of these rules, so that the full amount of the rent paid to the residence (basic lodging, food and services) could be included in the calculation of expenses eligible for the tax credit for medical expenses.

23 *Dame Charlotte B. Fortin v. Sous-ministre du Revenu du Québec*, [1985] C.P. 4.

As a result of the enforcement of that judgment, the full amount of the rent paid to lodge an individual in a residence for elderly persons constitutes eligible medical expenses, provided the individual is recognized by a qualified person to have a physical or mental handicap requiring special care at the residence.

This broad application of the rules respecting the tax credit for medical expenses clearly strays from the objective sought by the measure. In fact, under the federal system, a residence for elderly persons is not considered a specialized place for the purposes of the application of the rules governing eligibility, as medical expenses, of amounts paid for the care and training at a school, institution or other specialized place of a handicapped person, even though the rules are similar to those under the Québec taxation system.

Thus, to ensure the integrity of the tax credit for medical expenses, the tax legislation will be amended to provide that amounts paid, after December 31, 2007, for the care, or the care and training, at a school, institution or other place, of a particular person will not include amounts paid to a residence for elderly persons.

To this end, the expression “residence for elderly persons” will have the same meaning as for the purposes of the application of the refundable tax credit for home support for elderly persons.²⁴

❑ Expenses relative to the remuneration of a part-time attendant

Currently, the list of expenses eligible for the tax credit for medical expenses includes amounts paid as remuneration of a part-time attendant for care provided in Canada to a person with a severe and prolonged impairment in physical or mental functions, where the total of the amounts thus paid does not exceed \$10 000 (\$20 000 in the case of death).

However, individuals may include amounts paid as remuneration of a part-time attendant in the calculation of their eligible medical expenses only if no portion of the remuneration has been included in the calculation of a deduction for support measures of handicapped persons²⁵ or in the calculation of certain other eligible medical expenses,²⁶ or been taken into account in the calculation of the refundable tax credit for child care expenses.

24 This expression is defined in subsection 1.1.4.

25 The purpose of this deduction is essentially to facilitate labour market integration and access to studies for persons with a mental or physical impairment, by recognizing that they have additional expenses to pay in order to work or study.

26 Briefly, expenses for the care, or the care and training, at a school, institution or other specialized place, of a person suffering from a handicap, expenses for the full-time care in a nursing home of a person with a severe and prolonged impairment, expenses relative to the remuneration of a full-time attendant of a person with such an impairment, expenses relative to remuneration for the person's care or supervision provided in a group home in Canada, and expenses relative to the remuneration of a full-time care attendant for a person who is dependent because of an infirmity.

Furthermore, the eligibility as medical expenses of remuneration of a part-time attendant is conditional on the attendant's being an adult who is neither the person claiming the tax credit for medical expenses nor that person's spouse.

As soon as autonomy starts to decline or the first signs of disability appear, many seniors leave their home to go into a residence for elderly persons. These residences offer them a safe living environment adapted to their needs, where they generally have access to the services of a part-time attendant.

Since January 1, 2000, through the refundable tax credit for home support for elderly persons, all persons 70 or over have been able to receive financial assistance for certain home support services, including the services of a part-time attendant.

However, instead of this tax credit, certain seniors can claim another type of tax relief regarding the remuneration of an attendant, namely, the tax credit for medical expenses.

Given the rise in recent years in the construction of residences for elderly persons, the use of the services of a part-time attendant has become increasingly widespread, pointing out the inconsistencies that the co-existence of two types of assistance can cause in the treatment of expenses relative to the services of part-time attendants.

Accordingly, to enable more uniformity in the treatment of expenses relative to the remuneration of a part-time attendant while ensuring greater fairness among persons 70 or over, the tax legislation will be amended to provide that an individual may not include, in the calculation of his or her eligible medical expenses for a given year, the amounts paid after December 31, 2007 as remuneration of an attendant for care provided in Canada to a person with a severe and prolonged impairment in mental or physical functions, if the individual or the person who is individual's spouse at the time the amounts are paid is entitled to the refundable tax credit for home support for elderly persons with respect to the expenses.

For greater clarity, amounts paid as remuneration of an attendant for care provided in Canada may be included in the rent paid to a residence for elderly persons that offers personal care services.²⁷

27 Non-professional assistance services to enable an individual to perform an activity of daily living (services relating to personal hygiene, dressing, eating, mobility and transfers).

1.2 Improvement of the tax assistance for retirees

Low- and middle-income households that include a retiree or a person at least 65 years of age may claim tax relief in the form of a non-refundable tax credit.

The maximum amount on which this tax credit may be calculated for a given year corresponds to the aggregate of the amounts for a person living alone, with respect to age and for retirement income applicable to an individual for the year, plus, where applicable, the corresponding amounts to which the individual's eligible spouse²⁸ is entitled for the year.

The maximum amount must be reduced by 15% for each dollar of a household's family income that exceeds \$29 645.²⁹ The amount, thus reduced, is converted at a rate of 20% into a non-refundable tax credit that may be split between the spouses.

To improve the tax assistance for retirees, changes will be made to the amount with respect to age and the amount for retirement income.

☐ Amount with respect to age

The amount with respect to age—\$2 200—is granted to all persons who are at least 65 years of age at the end of a given year. Where an individual and the individual's eligible spouse at the end of the year are both 65, an amount of \$4 400 may therefore be taken into account in calculating the tax credit.

To better protect seniors' purchasing power from the rising cost of goods and services, the tax legislation will be amended to provide that, as of January 1, 2009, the amount with respect to age will be indexed automatically each year.³⁰

28 In general, the eligible spouse of an individual for a given year is the person who is the individual's spouse at the end of the year and who, at that time, is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual's spouse during the year, where that person died during the year and, at the time of death, was the individual's spouse and was not living separate and apart from the individual.

29 This amount is indexed automatically each year.

30 As in the case of the main parameters of the personal income tax system, the index used will correspond to the percentage change in the overall average Québec consumer price index without alcoholic beverages and tobacco products (QCPI-WAT) for the 12-month period ending on September 30 of the year preceding the one for which an amount is to be indexed, compared with the average QCPI-WAT for the 12-month period that ended on September 30 of the year prior to the year preceding the one for which an amount is to be indexed. For greater clarity, if the result obtained by applying the indexing factor to the amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

❑ Amount for retirement income

Introduced in 1975 to protect Quebecers' retirement income from inflation, the maximum amount for retirement income did not exceed \$1 000 until 2007. Further to the 2007-2008 Budget Speech, the maximum amount for retirement income was raised from \$1 000 to \$1 500. As a result of this \$500 increase in the maximum amount for retirement income, low- and middle-income pensioners may now obtain an income tax reduction of up to \$600 in the case of a couple, and \$300 otherwise.

Retirement income giving entitlement to this amount includes payments in respect of a life annuity out of or under a pension plan, annuity payments under a registered retirement savings plan or a deferred profit sharing plan and payments out of or under a registered retirement income fund. It does not include benefits received under the *Old Age Security Act*—the old age security pension, the spouse's allowance and the guaranteed income supplement—or the retirement pension received under the *Act respecting the Québec Pension Plan*.

To further relieve the tax burden of low- and middle-income pensioners, an individual's maximum eligible retirement income used to calculate the tax credit will be raised from \$1 500 to \$1 750 for the 2009 taxation year, and from \$1 750 to \$2 000 as of the 2010 taxation year. Thus, a couple's maximum eligible retirement income will be \$3 500 for the 2009 taxation year and \$4 000 for the 2010 taxation year.

In addition, to protect the maximum amount of \$2 000 for retirement income from inflation, it will be indexed automatically each year,³¹ as of the 2011 taxation year, on the basis of the index used for the main parameters of the personal income tax system.

1.3 Introduction of a refundable tax credit for respite expenses of informal caregivers

Over the years, an increasing number of people with disabilities have expressed the desire to stay as long as possible in their community, with their informal networks of friends and parents.

Nowadays, there are thousands of people with disabilities who remain at home in total safety. However, despite the range of home support services offered to them by the public health and social services network, many would inevitably be placed in a facility were it not for the devotion of their spouse and loved ones.

31 *Supra*, note 30.

Spouses and loved ones are therefore key players in enabling people who have disabilities or only a short time to live to remain at home.

People, primarily women, who provide ongoing care and assistance to a loved one because of his or her physical or mental state, and who do so without remuneration, are generally called informal caregivers. Whether they assume these responsibilities by choice or out of necessity, their role and devotion are no less essential to the recipients of their care.

Their place at the forefront of providing such care resulted in their being authorized to perform acts that are generally the purview of health professionals.³²

However, as informal caregivers play an increasing role in the lives of people with disabilities or receiving palliative care, so rises the need for respite.

Given the intensity of the care they provide, some informal caregivers must therefore turn to specialized services for respite, as only people with adequate training can replace them effectively as their loved one's caregiver.

To obtain specialized respite services, informal caregivers must sometimes incur expenses for which they receive no tax assistance. For example, individuals with no work income and no income tax payable cannot claim tax credits for medical expenses for the remuneration of an attendant that they pay on behalf of their spouse or a dependant.

Accordingly, to recognize the need of informal caregivers to get away and recoup, a refundable tax credit respecting expenses incurred for specialized respite services, of up to \$1 560 a year, will be introduced as of 2008.

❑ Calculation of the tax credit

Informal caregivers who are resident in Québec at the end of a given year³³ may claim a refundable tax credit for that year equal to 30% of the total expenses they paid in the year, to a maximum of \$5 200, for specialized respite services respecting the care and supervision of a person who, at the time the expenses were incurred, ordinarily lived with them and had a significant disability.

32 The *Professional Code* was amended to provide that, notwithstanding any inconsistent provision, a parent, a childcare provider or an informal caregiver may engage in professional activities reserved to members of an order.

33 More specifically, at the end of December 31 of the given year or, if they died in the year, on their date of death.

So that the tax assistance granted under this tax credit is of particular benefit to low- and middle-income informal caregivers, the maximum amount of the tax credit calculated for an informal caregiver will be reduced on the basis of the caregiver's family income, that is, the caregiver's income and, as the case may be, that of the person who is his or her eligible spouse for the year.³⁴

The reduction rate will be 3% on every dollar of family income that exceeds an annual threshold of \$50 000, which, like the main parameters of the personal income tax system, will be indexed automatically each year³⁵ as of January 1, 2009.

However, where, for a given taxation year, more than one individual living with a person with a significant disability may be considered the person's informal caregiver, only the individual who is the principal person providing support to the care recipient will be considered the latter's informal caregiver.

Furthermore, to claim the tax credit for a given taxation year, informal caregivers must enclose with the income tax return they file for the year one or more receipts issued by the service provider and indicating the latter's social insurance number if the provider is an individual.

□ Person with a significant disability

A person will be considered to have a significant disability if, at the time the expenses for specialized respite services are incurred by an informal caregiver, the person is at least 18 years old, cannot, because of the disability, be left without supervision, and meets the following conditions:

- the person is the informal caregiver's spouse, or the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle, great-aunt or another direct ascendant of the informal caregiver or the informal caregiver's spouse;
- the person has a severe and prolonged impairment in physical or mental functions³⁶ or is receiving palliative care.

34 The person who is the eligible spouse, for the year, for the purposes of the transfer of the unused portion of non-refundable tax credits from one spouse to the other. In general, for the purposes of the transfer, the eligible spouse of an individual for a given year is the person who is the individual's spouse at the end of the year and who, at that time, is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual's spouse during the year, where that person died during the year and, at the time of death, was the individual's spouse and was not living separate and apart from the individual.

35 For greater clarity, where the indexation amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

36 Within the meaning of this expression for the purposes of the tax credit for severe and prolonged impairment in physical or mental functions.

❑ Specialized respite services

Specialized respite services are services that consist in replacing an informal caregiver in order to provide home care to a person with a significant disability, where the services are provided by an individual who holds a recognized diploma or degree, namely:

- a Diploma of Vocational Studies (DVS) in Home Care and Family and Social Assistance;³⁷
- a Diploma of Vocational Studies (DVS) in Assistance to Patients or Residents in Health Care Establishments;³⁸
- a Diploma of Vocational Studies (DVS) in Health, Assistance and Nursing;
- a Diploma of College Studies (DCS) in Nursing;
- a Bachelor's degree (B.A.) in Nursing;
- any other diploma or degree enabling an individual to be a visiting homemaker, home support worker, family and social auxiliary, nursing attendant, health care aide, beneficiary care attendant, nursing assistant or nurse.

In this regard, a person will be deemed to have a recognized diploma or degree if he or she is employed by a social economy business accredited by the ministère de la Santé et des Services sociaux for the provision of specialized respite services.

❑ General restrictions

Expenses paid for specialized respite services that are taken into account in the calculation of eligible costs or expenses for the purposes of the application of another refundable³⁹ or non-refundable⁴⁰ tax credit claimed by an informal caregiver or any other person will not give entitlement to the refundable tax credit for respite expenses of informal caregivers.

Nor may the tax credit be claimed with respect to expenses for which a taxpayer is or was entitled to a refund or other form of assistance, unless the expenses must be included in the calculation the taxpayer's income and are not deductible in the calculation of the taxpayer's income or taxable income.

37 As of September 2008, this program of study will be replaced by the "Home Care Assistance" program, which has been under optional implementation since September 2007.

38 As of September 2008, this program of study will be replaced by the "Assistance in Health Care Establishments" program, which has been under optional implementation since September 2007.

39 For example, the refundable tax credit for child care expenses or the refundable tax credit for home support for elderly persons.

40 For example, the non-refundable tax credit for medical expenses.

1.4 New measures to increase the incentive to work

Since 2005, the tax system has granted a work premium in the form of a refundable tax credit to low- and middle-income households.

The objective of the work premium is twofold: support and value work effort, and encourage people to give up last-resort financial assistance to enter the labour market.

To that end, the work premium supplements the work income earned by an individual and by the individual's spouse, as the case may be, up to an amount that varies with the composition of the household. However, to target low- and middle-income households, the work premium is reduced when the household's family income exceeds a certain threshold.

In 2008, the maximum amount of the work premium is \$2 861 for a couple with children, \$2 218.80 for a single-parent family, \$801.08 for a couple without children and \$517.72 for a person living alone.

The work premium is granted to individuals who claim it in their income tax return. However, to better support parents who stay in the labour market, the Minister of Revenue may, if they so request, pay them in advance part of the work premium to which they believe they are entitled for a given year.

As structured, the work premium currently ensures a level of integration between the tax system and the income security system for people who do not have a severely limited capacity for employment. However, although the work premium is also intended for people with a severely limited capacity for employment, it does not allow for the same level of integration between the tax system and the income security system in regard to them.

Moreover, even though the assistance granted through the work premium successfully supports and values work effort, it is not enough of an incentive for last-resort assistance recipients to re-enter the labour market if they have been out of it for a number of years.

Hence, to improve the incentive for low- and middle-income households to work and to mitigate the effects of the “last-resort financial assistance trap”, various measures will be introduced. Through these measures, it will be possible to grant a work premium specially adapted to the situation of people with a severely limited capacity for employment, pay a supplement to long-term recipients who give up last-resort financial assistance, and offer households without children the opportunity to request advance payment of part of the tax assistance to which they may be entitled.

1.4.1 New work premium for people with a severely limited capacity for employment

To ensure greater integration between the tax system and the income security system for people with a severely limited capacity for employment, and to take into account the often major obstacles that must be overcome by people with disabilities in order to enter or stay in the labour market, a new work premium will be granted as of the 2008 taxation year to individuals who are part of a household that includes an adult with a severely limited capacity for employment and who meet the conditions for receiving the existing work premium.⁴¹

For the purposes of the application of the new work premium for people with a severely limited capacity for employment, hereinafter called the “adapted work premium”, for a given taxation year individuals will be considered to be part of a household that includes an adult with a severely limited capacity for employment if:

- they receive a social solidarity allowance during the year under the Social Solidarity Program⁴² because their physical or mental condition is significantly and in all likelihood permanently or indefinitely deficient or impaired and for that reason and in view of their socio-professional profile, their capacity for employment is severely limited;
- they are the eligible spouse⁴³ for the year, of an individual who receives a social solidarity allowance during the year under the Social Solidarity Program;

41 Briefly, the existing work premium is for all individuals, other than excluded individuals, who are living in Québec at the end of a given year or who, if they died in the year, on their date of death, provided, at that time, they have a recognized status (e.g. that of Canadian citizen or permanent resident) and are an adult, an emancipated minor, the spouse of another individual, or the father or mother of a child with whom they are living, unless, at that time, they have been in a prison or similar establishment for one or more periods totalling over six months during the year.

42 This program was established under the *Individual and Family Assistance Act*.

43 For the purposes of the application of the adapted work premium, the term “eligible spouse” will have the same meaning as for the purposes of the application of the existing work premium. In general, the eligible spouse of an individual for a given year is the person who is the individual’s spouse at the end of the year and who, at that time, is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual’s spouse during the year, where that person died during the year and, at the time of death, was the individual’s spouse and was not living separate and apart from the individual.

- they or their eligible spouse for the year received during one of the five years preceding the given year a social solidarity allowance under the Social Solidarity Program or a severely limited capacity for employment allowance under the *Act respecting income support, employment assistance and social solidarity*;⁴⁴
- they or their eligible spouse for the year is entitled, for the year, to the tax credit for severe and prolonged impairment in physical or mental functions.

For greater clarity, where individuals are entitled to both the existing and the adapted work premium for a given year, they may claim only one of the two premiums for that year. Moreover, where an individual claims an adapted work premium for a given year, that individual's eligible spouse for the year may not claim the existing work premium.

□ Calculation of the adapted work premium

As in the case of the existing work premium, the composition of an individual's household—person living alone, couple without children, single-parent family or couple with children—⁴⁵ will be a key factor in calculating the amount of the adapted work premium to which the individual is entitled for a given year.

The maximum amount of the adapted work premium will be obtained by applying, according to household composition, the rate of the tax credit to the amount by which the household's work income⁴⁶ or the reduction threshold, whichever is lower, exceeds excluded work income. However, since the adapted work premium is also intended for low- and middle-income households, the maximum amount of the premium will be reduced on the basis of family income,⁴⁷ at a rate of 10% for every dollar of family income in excess of the reduction threshold applicable to the household.

44 Last-resort financial assistance for people with a severely limited capacity for employment was paid under this statute until it was replaced, in 2007, by the *Individual and Family Assistance Act*.

45 For greater clarity, to determine the composition of an individual's household, the rules for determining household type for the purposes of calculating the existing work premium will be applied. Thus, to be considered the head of a single-parent family or a member of a couple with children, an individual who claims the adapted work premium must designate as a dependent one of his or her children, or his or her eligible spouse's children, as the case may be, in respect of whom tax assistance was granted (e.g. a child in respect of whom a child assistance payment was received).

46 Work income will be calculated in accordance with the rules applicable in that regard under the existing work premium.

47 Family income will be calculated in accordance with the rules applicable in that regard under the existing work premium.

In 2008, the maximum amount of the adapted work premium will be \$1 003.14 for a person living alone, \$1 476.54 for a couple without children, \$2 786.50 for a single-parent family and \$3 281.20 for a couple with children.

The table below presents the parameters to be used in calculating the adapted work premium for 2008.

TABLE A.7

**Parameters used to calculate the adapted work premium
(2008)**

	Person living alone	Couple without children	Single-parent family	Couple with children
Excluded work income	\$1 200	\$1 200	\$1 200	\$1 200
Tax credit rate	9%	9%	25%	20%
Reduction threshold	\$12 346	\$17 606	\$12 346	\$17 606
Reduction rate	10%	10%	10%	10%
Maximum adapted work premium ¹	\$1 003.14	\$1 476.54	\$2 786.50	\$3 281.20
Cut-off threshold ²	\$22 377.40	\$32 371.40	\$40 211	\$50 418

1 The maximum adapted work premium is equal to the product obtained by applying the tax credit rate to the amount corresponding to the amount by which the reduction threshold exceeds excluded work income.

2 Family income as of which a household is no longer eligible for the adapted work premium.

❑ Adjustment of the reduction thresholds

The adapted work premium thresholds will be adjusted annually, in accordance with rules determined by regulation, to harmonize them with the cut-off threshold of the Social Solidarity Program. For all taxation years subsequent to 2008, the applicable reduction thresholds will be published annually in the *Gazette officielle du Québec*.⁴⁸

The reduction threshold applicable for a given year, depending on whether the household includes one adult (person living alone or single-parent family) or two adults (couple with or without children), will be equal to the reduction threshold applicable to that household type for the year preceding the given year or the theoretical cut-off threshold of the Social Solidarity Program applicable for the year, whichever is higher.

48 Any notice published in the *Gazette officielle du Québec* may be retroactive to January 1 of the year for which the thresholds were calculated. For greater clarity, any notice published may also be revised retroactively. For example, revision may be retroactive where, subsequent to the publication of the notice, one of the parameters used to determine the reduction thresholds was changed, as may be the case if a change were made to the federal income tax parameters after the publication of the notice.

To that end, the theoretical cut-off threshold of the Social Solidarity Program applicable to a household type for a given year will correspond to the result obtained after following the two steps described hereafter for that household type. However, where the result obtained is not an even whole number, it must be adjusted to the nearest even whole number or, if it is equidistant from two even whole numbers, to the nearest higher even whole number.

■ Step 1: Calculation of net household work income

Step 1 consists in calculating the net household work income for a given year. Depending on whether a household is comprised of one or two adults, its net work income will correspond to the total, determined on an annual basis, of the amounts described in the table below, granted for each month in the year under the Social Solidarity Program.

TABLE A.8

Calculation of net household work income

Household with one adult	Household with two adults
<ul style="list-style-type: none"> - The basic benefit under the Social Solidarity Program (social solidarity allowance) for a single adult. - The amount of the adjustment granted under the Social Solidarity Program for a single adult, in lieu of the advance payment of the Québec sales tax (QST) credit, including the increase granted if the adult is not living in the same dwelling unit as another single adult or another family. - The amount of work income excluded under the Social Solidarity Program. 	<ul style="list-style-type: none"> - The basic benefit under the Social Solidarity Program (social solidarity allowance) for a family with two adults. - The amount of the adjustment granted under the Social Solidarity Program for a family with two adults, in lieu of the advance payment of the Québec sales tax (QST) credit. - The amount of work income excluded under the Social Solidarity Program.

■ Step 2: Calculation of gross household work income

Step 2 consists in calculating gross household work income for a given year by supposing that, to arrive at the amount of net work income calculated for the year in Step 1, the gross income is the household's annual salary from which only the following amounts were deducted at source:

- the amounts payable for the year as employee contributions under the *Act respecting the Québec Pension Plan*;
- the amounts payable for the year as employee contributions under the *Act respecting parental insurance*;

- the amounts payable for the year as employee contributions under the *Employment Insurance Act*, calculated according to the rate applicable to Québec workers;
- the amount of federal income tax that would be payable for the year if it were calculated taking into account only the basic tax credit, the spousal tax credit (where gross income is calculated for a two-adult household), the tax credit for employee contributions to the Québec Pension Plan, the Québec parental insurance plan and employment insurance, and the Canada employment tax credit.

For greater clarity, the gross household income of a two-adult household must be calculated as if only one of the adults had earned the household's net income.

❑ Accessory rules

To receive the adapted work premium for a given taxation year, individuals and, where applicable, their eligible spouse for the year must enclose the form prescribed by the Minister of Revenue with the income tax return they file for that year.

Where, for a given year, more than one individual in a household is entitled to the adapted work premium, the individuals must each indicate on their income tax return the portion of the premium they intend to claim. However, the splitting of the premium must not result in an amount higher than that which would have been granted if only one individual in the household had been entitled to the adapted work premium. Failing an agreement between the individuals, the Minister of Revenue will determine the amount each of them may claim.

As of 2009, advance payments may be made on the adapted work premium, in accordance with the same rules applicable to the existing work premium.⁴⁹

Moreover, so as not to reduce the tax assistance granted, the adapted work premium will not be taxable. In addition, the premium, except the portion that is paid in advance, may be used to reduce income tax instalments.

The tax regulations will be amended to provide that the Minister of Employment and Social Solidarity must, further to the payment of a social solidarity allowance to an individual under the *Individual and Family Assistance Act* for a given month included in a year subsequent to 2007, indicate that the individual was a recipient of the Social Solidarity Program established under that statute, on the RL-5 information slip he is required to issue for the year.

49 For individuals who receive advance payments of the existing work premium in 2008 and who are entitled to the adapted work premium for that year, the appropriate adjustments must be made in the income tax return they are required to file for the year.

1.4.2 Supplement for long-term recipients giving up last-resort financial assistance

The fight against poverty and social exclusion is based largely on integrating into the labour market people who have long been out of it.

Thus, to facilitate the labour market integration of long-term recipients who give up last-resort financial assistance after March 31, 2008, a supplement to the existing or adapted⁵⁰ work premium to which they are entitled will be paid to them to help them cover the sometimes substantial costs occasioned by their transition to the labour market.

Essentially, this supplement, granted on an individual basis for a maximum of 12 consecutive months, will be \$200 for each month in which an ex-recipient earns work income of at least \$200. Consequently, for a continuous period of work of at least 12 months, this supplement could reach \$2 400 for an ex-recipient with no spouse and \$4 800 in the case of a couple in which both spouses are ex-recipients, where both spouses have integrated the labour market.

Briefly, the supplement will be for individuals who received last-resort financial assistance for at least 36 of the 42 months preceding the month in which they became ineligible for the assistance because of work income earned by their household, provided they hold, for this first month of ineligibility, a claim booklet issued by the Minister of Employment and Social Solidarity enabling them to receive certain dental and pharmaceutical services.

To improve the cash situation of ex-recipients as they transition to the labour market, the supplement may be paid to them on a monthly basis.

□ Eligibility conditions

Individuals who are entitled to the existing or adapted work premium for a given year may receive \$200, for each given month in the year, as a supplement for long-term recipients giving up last-resort financial assistance, hereinafter called the “supplement,” provided the following conditions are met:

- the given month is included in an individual’s period of transition to work that began in the year or the previous year and after March 31, 2008;

50 The adapted work premium, introduced in the budget speech, is described in subsection 1.4.1.

- for at least 36 of the 42 months immediately preceding the start of the individual's period of transition to work in which the given month is included, the individual received last-resort financial assistance under the *Individual and Family Assistance Act* or the *Act respecting income support, employment assistance and social solidarity*;⁵¹
- the individual's work income for the given month is equal to or greater than \$200;
- for the first month of the individual's period of transition to work in which the given month is included, the individual held, in application of subparagraph 1 or 3 of the first paragraph of section 48 of the *Individual and Family Assistance Regulation*, a valid claim booklet issued by the Minister of Employment and Social Solidarity enabling the individual to receive certain dental and pharmaceutical services.

In this regard, an individual's period of transition to work means a period having begun on the first day of the month for which the individual was ineligible for the last-resort financial assistance provided for under the *Individual and Family Assistance Act* (month of return to work), because of work income earned by the individual and the individual's spouse, as the case may be, where, for the previous month, the individual was either eligible for the assistance or ineligible for a reason other than the work income earned by the individual's household, and ending no later than the last day of the eleventh month following the month of return to work, or the last day of the month preceding the one for which the individual became eligible again for last-resort financial assistance, whichever comes first.

An individual's work income for a given month will correspond to the aggregate of the following amounts:

- the salaries, wages and other remuneration, including gratuities,⁵² received from an office or employment held for the given month by the individual;⁵³
- the individual's income for the given month from any business the individual carries on alone or as a partner actively engaged in the business.⁵⁴

51 Last-resort financial assistance was paid under this statute until it was replaced, in 2007, by the *Individual and Family Assistance Act*.

52 This term includes both tips attributed and tips reported to the employer.

53 As in the case of work income taken into account for the purposes of calculating the existing or adapted work premium, individuals who are Indians may not include income situated on a reserve or on premises in the calculation of their work income for a given month.

54 *Supra*, note 53.

□ Application examples

The table below shows the period of transition to work, the 42-month period preceding it and each of the months giving entitlement to the supplement (S) for an individual without a spouse (I) and for a couple (C¹ and C²).

TABLE A.9

Examples of the application of the eligibility conditions for the supplement

	2004												2005											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
I										A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
										42	41	40	39	38	37	36	35	34	33	32	31	30	29	28
C ¹												A	A	A	A	A	A	A	A	A	A	A	A	A
C ²												A	A	A	A	A	A	A	A	A	A	A	A	A
												42	41	40	39	38	37	36	35	34	33	32	31	30
	2006												2007											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4
C ¹	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
C ²	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6
	2008												2009											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
I	A	A	A	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	3	2	1	S	S	S	S	S	S	S	S	S	S	S	S	S								
C ¹	A	A	A	A	A	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	5	4	3	2	1	S	S	S	S	S	S	S	S	S	S	S	S							
C ²	A	A	A	A	A	—	—	—	—	—	L	L	L	L	L	L	L	L	L	L	L	L	L	L
	5	4	3	2	1	—	—	—	—	—	S	S	S	S	S	S								

A: Month on last-resort financial assistance

C: Individual in a couple

I: Individual without a spouse

S: Month for which the supplement will be paid

L: Month on the labour market with work income equal to or greater than \$200

As shown, an individual without a spouse (I) will be entitled to the supplement for each of the 12 months included in his or her period of transition to work beginning on April 1, 2008 and ending on March 31, 2009.

Accordingly, the individual will be entitled to a supplement of \$1 800 for 2008 and \$600 for 2009 (a total of \$2 400). These amounts will be added to the existing or adapted work premium to which the individual is entitled for 2008 and 2009.

Spouse C¹ may claim the supplement for each of the 12 months included in his or her period of transition to work beginning on June 1, 2008 and ending on May 31, 2009, and will therefore be entitled to a supplement of \$1 400 for 2008 and \$1 000 for 2009.

Spouse C² may claim the supplement for 7 of the 12 months included in his or her period of transition to work, also beginning on June 1, 2008 and ending on May 31, 2009, and will therefore received \$400 for 2008 and \$1 000 for 2009.

In total, a household composed of spouses C¹ and C² will receive tax assistance of \$3 800 for 2008 and 2009, in addition to the existing or adapted work premium to which it is entitled for these years.

□ Payment of the supplement

To receive the supplement for a given year, individuals must claim it in the income tax return they file for that year on the prescribed form.

However, to help ex-recipients of last-resort financial assistance cover as soon as possible the costs of transitioning to the labour market, the Minister of Revenue may, upon request,⁵⁵ pay them the amounts attributable to the supplement for a given year in monthly instalments.

Monthly payments will be made to ex-recipients by direct deposit in an account held by them in a financial institution located in Québec.

The first payment on the supplement will be made on September 15, 2008, given the time required to put in place the appropriate administrative systems. However, this first payment will cover all of the amounts relative to the supplement for April to August.

For every given month subsequent to August 2008, the supplement will be paid on the fifteenth day of the following month.

Individuals who ask to receive monthly payments of the supplement must diligently inform the Minister of Revenue of any fact likely to render them ineligible for the supplement for a given month. For example, individuals must notify the Minister of Revenue if they move outside Québec, estimate their work income to be lower than \$200 or become eligible again for last-resort financial assistance.

In addition, when individuals file their income tax return, the total of the monthly amounts paid as the supplement must be reconciled with the amounts to which they are entitled for the year in that regard.

55 Requests for monthly payments must be submitted to the Minister of Employment and Social Solidarity.

Moreover, so as not to reduce the tax assistance granted under the supplement, like the existing or adapted work premium to which it is added, the supplement will not be taxable. In addition, the supplement may be used to reduce an individual's income tax instalments, unless it is paid monthly.

❑ Communication of information

The tax regulations will be amended to provide that the Minister of Employment and Social Solidarity must, further to the payment of a social assistance benefit or a social solidarity allowance to an individual under the *Individual and Family Assistance Act* for a given month included in a year subsequent to 2007, provide the following information on the RL-5 information slip he is required to issue for the year regarding the payment:

- the months for which such a benefit or allowance, as the case may be, was paid to the individual;
- where applicable, the first month of each period included in the year, for which the individual held, in application of subparagraph 1 or 3 of the first paragraph of section 48 of the *Individual and Family Assistance Regulation*, a valid claim booklet issued by the Minister of Employment and Social Solidarity enabling the individual to receive certain dental and pharmaceutical services;
- any other information deemed necessary by the Minister of Revenue for the application of the supplement.

1.4.3 Eligibility for advance payments of households without children

As a rule, households with children may request to have part of the existing work premium paid to them in advance, and will be able to do so, as of 2009, with respect to the adapted work premium⁵⁶ to which they believe they are entitled for a given year.

⁵⁶ The adapted work premium, introduced in the budget speech, is described in subsection 1.4.1.

To receive advance payments of a work premium for a given year, an individual who is the head of a single-parent family or in a couple with children⁵⁷ must submit a request to the Minister of Revenue on the prescribed form no later than September 1 of that year⁵⁸ and be, at the time of the request, a resident of Québec who has a recognized status⁵⁹ and actively participates in the labour market, generally as an employee or self-employed worker.⁶⁰

Furthermore, the individual must generally be an adult⁶¹ and believe that he or she is entitled to an annual premium of more than \$500.

When an individual's request for advance payments is accepted by the Minister of Revenue, the latter may pay in advance 50% of the individual's estimated premium for the year.

This amount is paid in equal quarterly amounts, that is, no later than the fifteenth day of January, April, July and October, depending on the date on which the request for advance payments is received by the Minister of Revenue.

However, individuals to whom the work premium is paid in advance are required to diligently inform the Minister of Revenue of any event likely to affect the advance payments to which they are entitled.⁶²

Moreover, when individuals file their income tax return, the total of the amounts paid in advance must be reconciled with the amount of the premium to which they are entitled for the year. If an amount becomes payable to the Minister of Revenue further to the reconciliation, an individual and, as the case may be, the individual's eligible spouse for the year⁶³ will be solidarily liable for the payment of the amount.

57 To be considered the head of a single-parent family or in a couple with children, an individual must have a dependent child who can be designated as a dependant for the purposes of calculating the existing or adapted work premium. Briefly, a child may be so designated if tax assistance was granted in the child's regard (e.g. a child assistance payment was received with respect to the child).

58 Where an individual is in a couple with children, only one request for advance payments of a work premium may be made for the household.

59 This may be status as a Canadian citizen, an Indian registered as such under the *Indian Act*, a permanent resident within the meaning of the Canadian *Immigration and Refugee Protection Act*, or a person to whom asylum has been granted under that Act.

60 Individuals engaged in research or similar work under a research grant are also considered to actively participate in the labour market.

61 The individual must not be a person in regard to whom another individual is entitled to a child assistance payment for the year, unless the individual is 18 or older on the first day of the month of the request.

62 Examples include the breakdown of their union, their move to a place outside Québec, an inaccurate estimate of their income for the year, or their imprisonment or that of their spouse or designated dependant.

63 In general, the eligible spouse of an individual for a given year is the person who is the individual's spouse at the end of the year and who, at that time, is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual's spouse during the year, where that person died during the year and, at the time of death, was the individual's spouse and was not living separate and apart from the individual.

❑ Request for advance payments by households without children

To strengthen the link between the tax assistance and the work effort required, the possibility of requesting advance payments will be extended, as of 2009, to households without children.

More specifically, on request by an individual who is living alone or in a couple without children⁶⁴ and who believes that he or she is entitled to the existing or adapted work premium for a given year, the Minister of Revenue may pay part of the estimated premium for the year in advance to the individual, where the following conditions are met:

- at the time of the request, the individual is a resident of Québec who has a recognized status⁶⁵ and actively participates in the labour market, generally as an employee or self-employed worker;⁶⁶
- the individual is not a person in regard to whom another individual is entitled to a child assistance payment for the year, unless the individual is 18 or older on the first day of the month of the request;
- the individual believes that he or she is entitled to an existing or adapted premium of more than \$300 for the year.

The terms and conditions governing requests by households without children for advance payment of the existing or adapted work premium will be the same as those currently applicable to households with children. Thus, requests for advance payments relative to a given year must be submitted to the Minister of Revenue on the prescribed form no later than September 1 of that year and, in the case of couples without children, only one request may be made for the household.

■ Amount of advance payments

The amount of the advance payments that may be made by the Minister of Revenue for a given year to an individual who is part of a household without children will be equal to 75% of the individual's estimated existing or adapted work premium for the year.

This amount will be paid in equal instalments according to the same payment schedule as for households with children, on the basis of the date on which the request is received.

64 For greater clarity, an individual will be considered to be living alone or in a couple without children if, for the purposes of the calculation of the existing or adapted work premium, he or she has no dependent children who can be designated as a dependant.

65 *Supra*, note 59.

66 *Supra*, note 60.

■ Related rules

Where advance payments are made to individuals who are part of a household without children, these individuals will be required, like their counterparts in households with children, to notify the Minister of Revenue of any event likely to affect the advance payments to which they are entitled and, when they file their income tax return, the total of the amounts paid in advance must be reconciled with the amount of the existing or adapted work premium to which they are entitled.

If an amount becomes payable to the Minister of Revenue further to such a reconciliation, rules similar to those applicable to households with children will be provided for so that the couple is solidarily liable for the payment of the amount.

□ Direct deposit

To eliminate the substantial administrative costs associated with the issue and sending of several cheques to the same person during a given year, all individuals, regardless of the composition of their household (with or without children), who request advance payments of the existing or adapted work premium must consent to direct deposit of the payments in an account held by them in a financial institution located in Québec.

This obligation will be imposed in regard to all requests for advance payments made for a year subsequent to 2008.

1.5 Indexation of the parameters of certain measures for workers

To protect the purchasing power of taxpayers against the rising cost of goods and services, the main parameters of the personal income tax system have been indexed annually since January 1, 2002.

This indexation applies to, among other things, the thresholds of the three taxable income brackets of the tax table, the amounts of recognized essential needs used to calculate several non-refundable tax credits, and to the maximum amounts of assistance granted under various refundable tax credits.

However, apart from the thresholds concerning the deductibility of automobile expenses and the rates for calculating the value of the taxable benefits related to the use of an automobile, which are set annually, few measures for workers are adjusted automatically.⁶⁷

67 Currently, the reduction threshold used to calculate the deduction for tradesperson's tool expenses and the monthly amount of the non-taxable board and lodging allowances paid to young athletes are indexed automatically each year.

A recent review of the tax legislation led to the identification of three measures intended primarily for workers that are aimed at recognizing expenses subject to inflation. These measures are the deduction for workers, the exemption for emergency services volunteers and the refundable tax credit for holders of a taxi driver's or owner's permit.

Consequently, so that these measures are also protected from inflation, the tax legislation will be amended to provide that their thresholds will be indexed automatically on an annual basis as of January 1, 2009.⁶⁸

□ Deduction for workers

All workers, be they employees or self-employed, may claim a deduction equal to 6% of their eligible work income, to a maximum of \$1 000.

Introduced in 2006,⁶⁹ this deduction is aimed at recognizing that part of an individual's work income must go toward paying work-related expenses, the most common ones being expenses incurred to travel from home to work, and additional expenses for meals and clothing.

To ensure that the maximum value of the deduction for workers is not reduced by inflation, the \$1 000 limit will be indexed automatically each year.⁷⁰

□ Amount for emergency services volunteers

Under the tax system, individuals who are employed by a public administration as volunteer ambulance technicians, volunteer firefighters or volunteers providing assistance in emergency situations do not have to include, in the calculation of their income, part of the amounts they receive or benefit from to carry out their volunteer duties.

This non-inclusion, which applies to the first \$1 000 individuals receive or benefit from in carrying out their duties as emergency services volunteers takes into account the fact that such individuals cannot deduct, in the calculation of their income, expenses, such as travel expenses, incurred in carrying out their duties.

68 As in the case of the main parameters of the personal income tax system, the index used will correspond to the percentage change in the overall average Québec consumer price index without alcoholic beverages and tobacco products (QCPI-WAT) for the 12-month period ending on September 30 of the year preceding the one for which an amount is to be indexed, compared with the average QCPI-WAT for the 12-month period that ended on September 30 of the year prior to the year preceding the one for which an amount is to be indexed.

69 The maximum amount was doubled, from \$500 to \$1 000, as of 2007.

70 For greater clarity, where the result after applying the indexing factor to the maximum amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

Given that the expenses covered by this measure are subject to inflation, the \$1 000 ceiling will be indexed automatically each year.⁷¹

❑ Refundable tax credit for holders of a taxi driver's or owner's permit

The purpose of the refundable tax credit for holders of a taxi driver's or owner's permit is to help the taxi industry by mitigating the impact of gas price hikes.

Taxpayers who hold one or more taxi owner's permits may claim a refundable tax credit equal to the result obtained by multiplying \$500 by the number of taxi permits they hold, provided they bore all or almost all of the fuel costs related to the use of all automobiles covered by the permits.

In addition, individuals who hold a taxi driver's permit may claim a refundable tax credit of up to \$500, unless they received a refundable tax credit as the holder of a taxi owner's permit.

However, the refundable tax credit that may be claimed by taxpayers who are taxi drivers or owners may not exceed an amount representing 2% of the aggregate of their income derived from their taxi driver's job, their taxi service business or the rental of automobiles covered by their taxi owner's permit.

To take inflation into account in the tax assistance available under this tax credit, the maximum amount of \$500 attributed respecting a given permit will be indexed automatically each year.⁷²

1.6 Enhancement of the stock option deduction granted to employees of innovative SMEs

Generally speaking, an employee who assigns or transfers rights under a stock option granted by the employer (or by a person with which the employer is not at arm's length), or who otherwise disposes of the rights, is deemed to receive, because of his or her office or employment, a benefit equal to the difference between the proceeds of disposition of the rights and the amount paid to acquire them. The value of this benefit must be included in the calculation of the employee's income for the taxation year during which the assignment or transfer of the rights occurs.

71 *Supra*, note 70.

72 For greater clarity, where the result after applying the indexing factor to the maximum amount is not a multiple of 1, it must be adjusted to the nearest multiple of 1 or, if it is equidistant from two multiples of 1, to the nearest higher multiple of 1.

An employee who acquires shares under an option granted by the employer (or by a person with which the employer is not at arm's length) is also deemed to receive, because of his office or employment, a benefit equal to the difference between the value of the shares at the time of their acquisition and the amount paid or payable to acquire the shares as well as the associated options.

When a Canadian-controlled private corporation (CCPC) grants a stock option to an employee, the value of this benefit must be included in the calculation of the employee's income for the taxation year during which the shares were disposed of.

In other instances, the value of the benefit must be included in the calculation of the employee's income for the taxation year during which the shares were acquired. However, under certain conditions, an employee can defer taxation of the value of the benefit resulting from the exercise of the option to the taxation year during which the shares are disposed of or exchanged, up to a single annual limit of \$100 000 based on the fair market value of the shares, other than the shares of a CCPC, at the time of the granting of the options.

In addition, under the current tax legislation, where an employee is required to include in the calculation of his or her income for a given taxation year, the value of a benefit he or she is deemed to have received regarding a stock option granted by the employer (or by a person with which the employer is not at arm's length), the employee may, provided certain conditions are satisfied (e.g. those relative to the shares), deduct, in the calculation of his or her taxable income for the year, an amount equal to 25% of the value of the benefit.

An employee of a CCPC who disposes of or exchanges a share more than two years after acquiring it may deduct, in the calculation of his or her taxable income, 25% of the value of the benefit included in the calculation of his or her income, where he or she does not claim, with respect to the share, the deduction described in the previous paragraph.

To help small and medium-sized enterprises (SMEs) carrying out innovative activities attract and retain highly specialized staff, while encouraging their employees to increase the enterprise's performance and profitability, the stock option deduction granted to employees of such enterprises will be raised from 25% to 50%.

The increase in the rate used to calculate the stock option deduction will apply to any event, operation or circumstance relating to a stock option granted by a corporation that agrees, after the day of the budget speech, to sell or issue a share of its capital stock or the capital stock of a corporation with which it is not at arm's length, to one of its employees or an employee of a corporation with which it is not at arm's length, where the corporation is an SME carrying out innovative activities for the calendar year during which it agrees, at a given time, to sell or issue such a share, that time being referred to hereinafter as the "time when a stock option is granted".

To this end, a corporation will be considered an SME carrying out innovative activities for a given calendar year that includes a time when a stock option is granted, if, during that year, it carries on a business, and has an establishment, in Québec and meets the following conditions:

- the amount of its assets as shown in its financial statements submitted to shareholders for its taxation year ended in the calendar year preceding the given year or, if the corporation is in its first fiscal year, at the beginning of its first fiscal year, is less than \$50 million, taking into account the assets of the corporations with which it is associated in the taxation year;
- it was granted an amount as a refundable R&D tax credit for its taxation year ended in the given year, or for one of the three previous taxation years, that is, the refundable tax credit for R&D salary, the refundable tax credit concerning fees or contributions paid to an eligible research consortium, the refundable tax credit for university R&D, the refundable tax credit for pre-competition research or the refundable tax credit for private partnership pre-competition research.

For the purposes of the application of these rules, the assets of a corporation must be determined in the same manner as for the calculation of the refundable tax credit for R&D salary granted to SMEs.

1.7 Greater recognition of meal expenses for commission employees

Briefly, employees who are remunerated in whole or in part on a commission basis, in keeping with sales made or contracts negotiated, hereinafter called “commission employees”, may deduct, in the calculation of their employment income, the amounts they spend in a year to earn income, to the extent that these amounts do not exceed the commissions they received in the year.

Deductible expenses may include part of the amounts paid for meals, that is, generally 50% of the amount paid for a meal or of the amount that would have been reasonable in the circumstances, whichever is lower.⁷³

However, no part of an amount paid by commission employees for a meal qualifies as an eligible expense, unless the meal was consumed during a period while they were required by their duties to be away, for not less than 12 hours, from the local municipal territory or the metropolitan area, as the case may be, where the employer’s establishment to which they ordinarily report for work is located (hereinafter called the “12-hour rule”).

73 The 50% limit does not apply to expenses incurred for the consumption of food or beverages on a plane, train or bus during the trip, or for entertainment provided thereon, where the expenses are included in the cost of the trip.

It follows that commission employees who invite a client to a restaurant for a business meal may include the cost of the client's meal in the calculation of their eligible expenses, subject to the 50% limit on the amount paid for the meal.

That said, no part of the amount paid for the meal by a commission employee on such an occasion is deductible if the 12-hour rule was not complied with.

Originally, the purpose of the 12-hour rule was the fair treatment of salespeople assigned to a fixed place and those who had to travel short distances, as the working conditions of these two categories of employees were essentially the same.

However, business practices in certain sectors of activity have changed greatly in recent years. The hectic pace imposed by society has made it common practice for certain commission employees to invite their clients to a restaurant to conclude a sale or obtain a contract. From this standpoint, the amount paid by commission employees for a meal with a client is an inevitable expense.

Accordingly, to better recognize the expenses commission employees must incur to earn income, the tax legislation will be amended to provide that the 12-hour rule will not apply to business meals consumed, after the day of the budget speech, by commission employees whose office or employment is connected with the selling of property or negotiating of contracts on behalf of their employer.

For greater clarity, the deductible amount will be equal to 50% of the amount paid by commission employees for a meal with a client or of a reasonable amount in the circumstances, whichever is lower.

1.8 Contributions to the U.S. social security system: eligibility for the foreign tax credit

To avoid the double taxation that can result when income is taxable in more than one country, the tax system grants a foreign tax credit to individuals who are resident in Québec at the end of a taxation year.⁷⁴

Briefly, this tax credit recognizes the income tax that was paid during a given year to the government of a foreign country on income that was derived from a source in that country and that is also taxed in Québec for that year. The tax credit is calculated separately, depending on whether the foreign income tax was paid on business or non-business income.

⁷⁴ Individuals who are resident in Québec on their date of death or on the date they cease to reside in Canada may also claim the foreign tax credit.

Where foreign income tax is paid on non-business income, the tax credit is generally equal to the Québec income tax attributable to the foreign income, or to the amount by which the foreign income tax paid on the non-business income exceeds the foreign tax credit granted under the federal taxation system, whichever is lower.

Prior to 2004, contributions paid by employees to the U.S. social security system under the *Federal Insurance Contributions Act*, hereinafter called “FICA contributions”,⁷⁵ were considered income tax on non-business income. FICA contributions therefore gave entitlement to the foreign tax credit.

In 2004, Revenu Québec stopped considering FICA contributions or contributions to any other social security system of a foreign country to be income tax on non-business income, unless the contributions are paid to a public pension plan under a foreign statute and it is reasonable to conclude that the employees will not derive any monetary benefit from their contributions, given the short, temporary nature of their employment in the foreign country.

With the exception of FICA contributions, Revenu Québec’s new position is in line with that of the Canada Revenue Agency regarding contributions to the social security systems of a foreign country other than the United States. Under the *Convention between Canada and the United States of America with respect to taxes on income and on capital*, Canada explicitly agreed to grant a foreign tax credit on FICA contributions. As a result, FICA contributions continue to give entitlement to the federal foreign tax credit.

It follows that, since 2004, the tax treatment of FICA contributions by the two levels of government has been different, primarily because the Québec government is not bound by the fiscal convention concluded by the government of Canada and no such convention exists between Québec and the United States.

Non-recognition of FICA contributions affects cross-border workers in particular, a large number of whom are forestry sector employees, who have already been hard hit by the current economic situation. Moreover, all cross-border workers are disadvantaged by the fact that their counterparts in the other Canadian provinces can still claim a foreign tax credit on these contributions.

Thus, to assist cross-border workers and return to the situation that existed prior to 2004, the tax legislation will be amended to provide that any social security taxes paid to the United States will be eligible for the foreign tax credit as income tax on non-business income. This amendment will apply retroactively as of the 2004 taxation year.

Thus, contributions to both components of FICA—Social Security and Medicare—will be considered to have always been eligible for the foreign tax credit.

75 FICA contributions fund two U.S. programs, namely, Social Security, under which retirement and disability benefits, among other things, are paid, and Medicare, a health and hospital insurance plan for seniors and people with disabilities.

1.9 Enhancement of the tax credit for child care expenses

In 1997, the government established a program offering reduced-contribution spaces in educational child care services for children under 5 years of age at minimal cost to parents. For \$7 a day per child, families can send their children to a childcare centre, a day care centre that has concluded a subsidy agreement for that purpose or a home childcare provider recognized by a coordinating office.

Some 200 000 reduced-contribution spaces are offered by educational childcare services in all regions of Québec.

In addition to the reduced-contribution program, other measures have been introduced to facilitate access to child care services; among them, the refundable tax credit for child care expenses, which compensates parents who pay child care expenses for a child who does not benefit from a reduced-contribution space.

The tax credit recognizes the costs borne by parents who require child care services so that they can go to work, pursue studies or look for a job. Given the specific nature of these expenses and the fact that, for some parents, child care expenses might otherwise hinder their chances of entering or staying in the labour market, the tax credit is calculated by applying a rate determined on the basis of family income to the eligible expenses.⁷⁶

The applicable rates are degressive, decreasing from 75% to 26% as family income rises. Each of the 50 family income brackets used to determine the rate of the tax credit is automatically indexed each year.

Currently, a rate of 75% is applied to family income of \$30 795 or less. The rate decreases one percentage point to reach 26% for a family income above \$85 535. The difference between each family income bracket is around \$1 140.

The tax credit for child care expenses is granted to individuals who claim it in their income tax return.⁷⁷ However, to better support families, the Minister of Revenue may, upon request, pay part of the tax credit in advance to individuals who believe they are entitled to it for the tax credit for a given taxation year. Advance payments are made quarterly.

76 Briefly, an individual's eligible child care expenses for a given taxation year include all child care expenses incurred by the household for that year, up to the annual limit on recognized child care expenses. The limit corresponds to the aggregate of the maximum amount of child care expenses for the year applicable to each eligible child in respect of whom expenses were incurred (\$10 000 if the child has a severe and prolonged mental or physical impairment, \$7 000 if the child is under 7 years of age at the end of the year, or would have been had the child been living, and \$4 000 otherwise).

77 However, where an individual and the individual's spouse are both entitled to the tax credit, they must split it between them.

By combining the reduced-contribution program for child care services with the refundable tax credit for other child care expenses, the government is respecting and supporting parents in their choice of child care.

Currently, however, the refundable tax credit for child care expenses does not ensure neutrality between the net cost of child care borne by middle-class families that do not benefit from a reduced-contribution day care space and that borne by middle-class families who do.

☐ **New rate table used to determine the refundable tax credit for child care expenses**

To narrow the gap between the net cost of child care borne by middle-class families that do not benefit from a reduced-contribution space and that of families that do, the rate table used to determine the refundable tax credit for child care expenses will be replaced as of 2009.

The following table shows the changes that will be made to the rate table used to determine the refundable tax credit for child care expenses.

TABLE A.10

Rate table used to determine the refundable tax credit for child care expenses (2009, before indexation)¹

Family Income (\$)			Family Income (\$)			Family Income (\$)		
over	but not over	Tax credit rate %	over	but not over	Tax credit rate %	Over	but not over	Tax credit rate %
—	30 795	75	42 195	43 330	64	89 000	90 155	46
30 795	31 930	74	43 330	44 475	63	90 155	91 310	44
31 930	33 075	73	44 475	45 610	62	91 310	92 465	42
33 075	34 210	72	45 610	46 755	61	92 465	93 620	40
34 210	35 350	71	46 755	82 100	60	93 620	94 775	38
35 350	36 485	70	82 100	83 245	58	94 775	95 930	36
36 485	37 635	69	83 245	84 380	56	95 930	97 085	34
37 635	38 775	68	84 380	85 535	54	97 085	98 240	32
38 775	39 910	67	85 535	86 690	52	98 240	99 395	30
39 910	41 045	66	86 690	87 845	50	99 395	100 550	28
41 045	42 195	65	87 845	89 000	48	100 550	and over	26

1 Starting January 1, 2009, the various family income brackets will be automatically indexed each year according to the indexing factor used to index the main parameters of the personal income tax system.

❑ Advance payments of the refundable tax credit for child care expenses

The Minister of Revenue may pay the refundable tax credit for child care expenses in advance to families who believe they are entitled to the tax credit for a given year. Advance payments are made on January 15, April 15, July 15 and October 15 each year.

The amount of the advance payments that may be made to an individual by the Minister of Revenue for a given taxation year is established by applying, to the eligible child care expenses the individual believes he or she will be required to pay for the year, the rate provided for in the rate table used to determine advance payments of the refundable tax credit for child care expenses on the basis of the individual's estimated family income for the year.

To enable middle-class families to benefit from the improved refundable tax credit for child care expenses starting in January 2009, a new rate table used to determine advance payments of the refundable tax credit for child care expenses will be established.

The following table presents the new table.

TABLE A.11

Rate table used to determine advance payments of the refundable tax credit for child care expenses (2009, before indexation)¹

Family income (\$)		Tax credit rate %	Family income (\$)		Tax credit rate %
over	but not over		over	but not over	
—	30 795	75	82 100	87 845	50
30 795	36 485	70	87 845	93 620	40
36 485	42 195	65	93 620	99 395	30
42 195	82 100	60	99 395	et plus	26

¹ Starting January 1, 2009, the various family income brackets will be automatically indexed each year according to the indexing factor used to index the main parameters of the personal income tax system.

Furthermore, in order to eliminate the high administrative costs of issuing and sending several cheques to the same individual during the course of a year, individuals who file an application for advance payments must agree to have the payments made by direct deposit into an account held by the individual in a financial institution located in Québec.

This requirement will apply to all applications for advance payments filed for a year after 2008.

1.10 Improvement of the tax assistance granted to people who turn to medical assistance or adoption to become parents

The tax legislation currently grants assistance of up to \$6 000 to people who use certain medical techniques or choose adoption to become parents.

Individuals who seek medical assistance may claim a refundable tax credit for expenses related to artificial insemination or *in vitro* fertilization. The refundable tax credit for the treatment of infertility is currently equal to 30% of all eligible expenses, up to \$20 000, paid in a given year by an individual, or by the person who was the individual's spouse at the time of the payment, in order to become parents.

These expenses include, among other things, the amounts paid to a physician or private hospital centre and those paid for medication prescribed by a physician and recorded by a pharmacist for artificial insemination or *in vitro* fertilization treatments.

Individuals who adopt a child may claim a refundable tax credit equal to 30% of the eligible adoption expenses paid by them or their spouse, if the adoption process is completed. Adoption expenses eligible for this tax credit are also capped at \$20 000.

Eligible adoption expenses include, among other things, judicial or extrajudicial expenses incurred to obtain a qualifying decision in respect of the adoption of a child, travel and accommodation expenses for the adoptive parents, expenses relating to the translation, where applicable, of documents pertaining to the adoption, and the fees charged by the foreign institution that provided for the needs of the adopted child.

To further help individuals who wish to become parents, the rate of the refundable tax credits for the treatment of infertility and for adoption expenses will be raised from 30% to 50%.

This improvement will enable people who opt for one of the two main treatments for infertility, namely, artificial insemination and *in vitro* fertilization, to receive tax assistance of up to \$10 000 a year, and those who turn to adoption, to obtain tax assistance of up to \$10 000 per child adopted.

The improvement to the rate of the refundable tax credit for the treatment of infertility will apply as of the 2008 taxation year. The enhancement of the refundable tax credit for adoption expenses will apply to qualifying certificates remitted or issued after December 31, 2007 with respect to the adoption of a child, or to qualifying judgments rendered after December 31, 2007.

2. MEASURES CONCERNING BUSINESSES

2.1 Measures to foster private investment and the economic development of every region

Québec's tax system includes many incentives for businesses that seek, among other things, to foster the economic development of the resource regions.

In recent years, three refundable tax credits were put in place to encourage job creation in Québec's resource regions, 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 granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a targeted region, until December 31, 2009.

In view of the approaching expiry of these tax credits, the Task Force on tax Assistance for the Resource Regions and the New Economy (Task Force) was set up to thoroughly analyze the impact this could have on Québec businesses.⁷⁸

The report of Task Force was released on February 7, 2008.⁷⁹ Briefly, the Task Force proposes to redirect tax assistance to all resource regions by focusing on the investments made by corporations located there rather than on the jobs created or maintained there.

Moreover, in a context in which market globalization and the advance of emerging economies affect all manufacturers, it is important that the government's action be directed to businesses in all regions of Québec, while considering the particular situation of businesses located in regions that face the additional costs brought about by their distance from urban regions.

Accordingly, to enable all corporations operating in the manufacturing sector to become more competitive on a lasting basis, an investment tax credit will be introduced for investments made in manufacturing and processing equipment. The rate of this tax credit will be 5%, but it may rise to 20% where the eligible investment is made in an intermediate zone, to 30% where this investment is made in the Bas-Saint-Laurent region and to 40% where this investment is made in a remote zone.

78 The formation of this task force, more commonly known as "the Gagné Committee", was announced in the February 20, 2007 Budget Speech and confirmed in the May 24, 2007 Budget Speech.

79 *On Equal Terms – Report of the Task Force on Tax Assistance for the Resource Regions and the New Economy.*

In addition, to provide an adequate transition period towards this new assistance mechanism, the expiration of the three refundable tax credits granted in the resource regions will be delayed one year.

Moreover, special rules will apply to prevent a corporation from benefiting from any of these three tax credits, according to the existing terms and conditions, and the new investment tax credit at the same time.

Lastly, to further support the development of aluminum processing, in which the Saguenay–Lac-Saint-Jean region excels, changes will be made to the refundable tax credit for the Vallée de l'aluminium. Briefly, these changes will enable corporations located in the Vallée de l'aluminium to benefit, under certain conditions, from the two types of tax assistance. Similar changes will be made to the refundable tax credit for Gaspésie and certain maritime regions of Québec to take the existing employment situation in these regions into account.

2.1.1 Introduction of an investment tax credit for manufacturing and processing equipment

An eligible corporation that makes an eligible investment, during a taxation year, may claim an investment tax credit, for such year, of up to 40% of the amount of the eligible investment. The rate of the investment tax credit applicable to a given corporation will depend, first, on where the eligible investment is made and, second, on the corporation's paid-up capital, calculated on a consolidated basis.

This tax credit will be fully refundable for corporations whose paid-up capital, calculated on a consolidated basis, does not exceed \$250 million. Refundability will decline linearly for paid-up capital, so calculated, between \$250 million and \$500 million. Any non-refundable portion of the tax credit may be carried forward.

□ Eligible corporation

In general, any corporation, other than an excluded corporation, that, during a taxation year, carries on a business in Québec and has an establishment there, may, under certain conditions, claim the investment tax credit for such taxation year.

The expression “excluded corporation”, for a taxation year, means:

- a corporation that is tax-exempt for the year;
- a Crown corporation or a subsidiary wholly controlled by such corporation.
- an aluminum producing corporation;
- an oil refining corporation.

In this regard, the expression “aluminum producing corporation” means any corporation that carries on an aluminum producing business or that owns or leases assets used in the course of carrying on such a business by a corporation, partnership or trust with which it is associated.⁸⁰

Similarly, the expression “oil refining corporation” means any corporation that carries on an oil refining business or that owns or leases assets used in the course of carrying on such a business by a corporation, partnership or trust with which it is associated.

❑ Eligible investments

Eligible investments for the purposes of this investment tax credit are assets that qualify as manufacturing and processing equipment, i.e. assets of class 43 of Schedule B of the *Regulation respecting the Taxation Act*.

In addition, these assets will be covered by the same rules as those that apply to assets covered by the capital tax credit, in particular the requirement that they begin to be used within a reasonable time, for a period of at least 730 days, solely in Québec and mainly in the course of carrying on a business.⁸¹ Similarly, the assets must be new.

The amount of an eligible investment by a corporation, for a taxation year, will correspond to the portion of the capital cost of the eligible investment that is incurred in the year by the corporation.

The assets must be acquired after the day of the Budget Speech and before January 1, 2016, unless:

- they are acquired in accordance with a written obligation contracted no later than the day of the Budget Speech;
- their construction, by the taxpayer or on his behalf, was underway on the day of the Budget Speech.

Moreover, the amount of the eligible investment must be reduced by the amount of any government assistance, any non-government assistance and any profit or gain, according to the usual rules. In this regard, the federal investment tax credit will not constitute government assistance in the determination of the amount of an investment eligible for the investment tax credit.

⁸⁰ The rules used to determine whether a corporation is associated with a partnership or a trust are described below on page A.62.

⁸¹ For greater clarity, an investment made in the course of carrying on a business linked to a major investment project cannot constitute an eligible investment for the purposes of the investment tax credit relating to manufacturing and processing equipment.

❑ Paid-up capital calculated on a consolidated basis

As mentioned above, a corporation's paid-up capital, calculated on a consolidated basis, will be used to establish the rate of the applicable investment tax credit as well as the refund rate of the tax credit.

More specifically, the paid-up capital referred to is the one calculated for the purposes of the tax on capital. It must be determined on a world basis, considering the paid-up capital attributable to associated corporations, including that of associated corporations not subject to the *Taxation Act*.

Accordingly, where a corporation is not associated with another corporation in a given taxation year, the paid-up capital of the eligible corporation applicable to such given taxation year will be the one determined for its preceding taxation year. Where the corporation is in its first fiscal year, its paid-up capital will be determined on the basis of its opening balance sheet prepared in accordance with generally accepted accounting principles.

Moreover, where a corporation is associated with one or more other corporations during a given taxation year, the applicable paid-up capital, for such given taxation year, corresponds to the total of the paid-up capital of the corporation determined for its preceding taxation year and the paid-up capital of the corporations to which the corporation is associated, during the given taxation year, determined for their last taxation year ended in the twelve months preceding the start of the corporation's given taxation year. Once again, where such a corporation or one of the other corporations is in its first fiscal year, its paid-up capital is determined on the basis of its opening balance sheet prepared in accordance with generally accepted accounting principles.

In addition, paid-up capital calculated on a consolidated basis must include the paid-up capital that would be attributable to a partnership, a trust or to an individual deemed associated with a corporation according to the rules described below, were such partnership, trust or individual a corporation subject to the tax on capital.

To determine whether a corporation is associated with a partnership, trust or individual during a given taxation year, the following rules will apply:

- the partnership and the trust will be considered a corporation all of whose voting shares belong to the members of the partnership or the recipients of the income of the trust at the end of the calendar year, in proportion to the distribution among them of the income or loss of the partnership or the trust for the fiscal year ending in the taxation year;
- the individual, other than a trust, carrying on a business, will be considered to be carrying on such business by means of a corporation all of whose voting shares belong to the individual at the end of the taxation year.

❑ Rate of the investment tax credit

The rate of the investment tax credit an eligible corporation may claim will be 5%. However, this rate will be increased to 20% where the eligible investment is made in an intermediate zone, to 30% where this investment is made in the Bas-Saint-Laurent region and to 40% where this investment is made in a remote zone.

In this regard, the eligible investment will be considered made in an intermediate zone, the Bas-Saint-Laurent region or in a remote zone where the asset covered by such investment is acquired to be used chiefly in either of these places.

For an eligible corporation to benefit from the increased rates of 20%, 30% or 40%, its paid-up capital, calculated on a consolidated basis, must not exceed \$250 million. Moreover, where the paid-up capital of the eligible corporation, calculated on a consolidated basis, exceeds \$250 million but is less than \$500 million, the 20%, 30% and 40% rates must be reduced linearly until the 5% rate is reached.

Where the investment is made in an intermediate zone, the rate of the applicable investment tax credit is established according to the following formula:

$$\text{ITC rate} = 20\% - \left[15\% \times \frac{(\text{Paid-up capital calculated on consolidated basis} - \$250 \text{ million})}{\$250 \text{ million}} \right].$$

Where the investment is made in the Bas-Saint-Laurent region (region 01), the rate of the applicable investment tax credit is established according to the following formula:

$$\text{ITC rate} = 30\% - \left[25\% \times \frac{(\text{Paid-up capital calculated on consolidated basis} - \$250 \text{ million})}{\$250 \text{ million}} \right].$$

Similarly, where the investment is made in a remote zone, the rate of the applicable investment tax credit is established according to the following formula:

$$\text{ITC rate} = 40\% - \left[35\% \times \frac{(\text{Paid-up capital calculated on consolidated basis} - \$250 \text{ million})}{\$250 \text{ million}} \right].$$

In these formulas, the initials ITC stand for investment tax credit.

For example, the rate of the investment tax credit applicable to an eligible corporation whose paid-up capital is \$375 million will be 12.5%⁸² if the eligible investment is made in an intermediate zone.

82 I.e. $20\% - [15\% \times (\$375 \text{ million} - \$250 \text{ million}) / \$250 \text{ million}] = 12.5\%$.

Accordingly, where the paid-up capital of an eligible corporation, calculated on a consolidated basis, is equal to or greater than \$500 million, the 5% rate applies, even if the eligible investment is made in an intermediate zone, the Bas-Saint-Laurent region or in a remote zone.

❑ Refundability of the tax credit according to the size of the corporation

The investment tax credit to which an eligible corporation is entitled, during a taxation year,⁸³ may be deducted from income tax and the tax on capital otherwise payable by it for such taxation year.

To that end, the income tax and the tax on capital payable by a corporation correspond to the income tax and tax on capital otherwise payable by the corporation, for such taxation year, before taking into consideration the refundable tax credits the corporation may otherwise claim as well as the non-refundable portion of the tax credit for mine, oil, gas or other resources.⁸⁴

Moreover, the portion of the investment tax credit relating to a taxation year that cannot be applied against income tax and the tax on capital payable by the corporation for such taxation year can be refunded, in whole or in part, or carried forward.

For an eligible corporation to benefit fully from the refundability of the investment tax credit relating to a taxation year, its paid-up capital, applicable for such year and calculated on a consolidated basis, must not exceed \$250 million. Moreover, an eligible corporation may receive a partial refund, for a taxation year, where its paid-up capital applicable for such year, calculated on a consolidated basis, is between \$250 million and \$500 million.

In such a case, the refund rate of the investment tax credit, for a taxation year is equal to the rate established according to the following formula:

$$\text{ITCR} = 1 - \frac{(\text{Paid-up capital calculated on a consolidated basis} - \$250 \text{ million})}{\$250 \text{ million}} .$$

In this formula, ITCR stands for investment tax credit rate.

83 For greater clarity, the portion of the investment tax credit carried forward from a prior taxation year will receive the same treatment as the investment tax credit relating to the taxation year.

84 For greater clarity, the investment tax credit a corporation may claim, for a taxation year, will not reduce the non-refundable portion of the tax credit for mine, oil, gas or other resources the corporation may claim for the same taxation year.

Consequently, where the paid-up capital of an eligible corporation applicable for a taxation year, calculated on a consolidated basis, is \$500 million or more, it will not receive a refund of the investment tax credit for such taxation year.

However, the non-refundable portion of the investment tax credit relating to a taxation year that exceeds the income tax and tax on capital payable for such taxation year may be carried back to the preceding three taxation years or forward to the following twenty taxation years. However, this carry-over is not allowed for a taxation year ended before the day following the day of the Budget Speech.

❑ Intermediate zones and remote zones

Intermediate zones consist of the territories included in the following administrative regions:

- Saguenay–Lac-Saint-Jean (region 02);
- Mauricie (region 04);
- in Outaouais (region 07), the La Vallée-de-la-Gatineau and Pontiac RCMs;
- in Laurentides (region 15), the Antoine-Labelle RCM.

Remote zones consist of the territories included in the following administrative regions:

- Abitibi-Témiscamingue (region 08);
- Côte-Nord (region 09);
- Nord-du-Québec (region 10);
- Gaspésie–Îles-de-la-Madeleine (region 11).

❑ Election of applicable tax assistance

Generally, a corporation that is eligible for any of the three refundable tax credits allowed in the resource regions, hereunder called “regional tax credit”, that would otherwise be eligible for the investment tax credit, may, for a taxation year ending after the day of the Budget Speech, irrevocably elect to receive, in lieu of the regional tax credit at the currently applicable rate, the new investment tax credit, for such taxation year.

Making this election will irrevocably withdraw the corporation’s right the regional tax credit that it could have claimed for the calendar year ending in such taxation year and subsequent calendar years. For greater clarity, a corporation eligible for a regional tax credit may continue to claim such tax credit, according to the existing terms and conditions, until it expires, if it does not elect to claim the investment tax credit.

Moreover, where a corporation eligible for the investment tax credit is associated, during a taxation year, with another corporation that is already eligible for a regional tax credit, the election to claim the investment tax credit, for a taxation year ending after the day of the Budget Speech, must be made jointly by the eligible corporation and any other corporation to which it is associated. This election must be filed no later than the filing deadline applicable to the eligible corporation that wishes to claim the investment tax credit.⁸⁵

Making this election will irrevocably withdraw the right to the regional tax credit, according to the currently applicable terms and conditions, which the corporation that is a member of the group of associated corporations could have claimed for the calendar year in which the taxation year for which the election is made ends, and for subsequent calendar years.

For greater clarity, a member corporation of a group of associated corporations already eligible for regional tax credit may continue to receive such tax credit, according to the currently applicable terms and conditions, until it expires, if no other member corporation of such group elects to claim the investment tax credit.

Similarly, the investment tax credit that would otherwise have been determined had the member corporation of the group of associated corporations made such an election, may not be included in the unused balance of the investment tax credit at the beginning of the taxation year following the one including December 31, 2010. However, any eligible investment made by the corporation as of such taxation year following the one including December 31, 2010 may be considered for the purposes of the investment tax credit.⁸⁶

❑ Other application details

Corporations that are members of a partnership may also receive the investment tax credit regarding eligible investments made by such partnership. In such a case, the eligibility of the investment will be determined regarding the partnership, but the investment tax credit will be allocated to each member corporation of the partnership, for their taxation year in which the fiscal period of the partnership during which the eligible investment is made by the partnership ends, on the basis of their respective share of the income or loss of such partnership for such fiscal period. Each member corporation then determines the amount of the investment tax credit it can claim for such taxation year and, if applicable, the portion of such investment tax credit it must carry forward to a subsequent taxation year.

85 Assuming that many member corporations of a group of associated corporations are thus eligible for the investment tax credit, the election must be filed no later than the earliest filing deadline applicable to such corporations.

86 Similarly, the carried-over portion of an investment tax credit attributable to a taxation year prior to the one when the corporation became associated with a corporation eligible for a regional tax credit, may be applied according to the stipulated terms and conditions.

Moreover where, during a given taxation year, an eligible investment ceases to be used in Québec and mainly in the course of carrying on a business during the minimum utilization period of 730 days, there will be a loss of tax benefit. More specifically, the investment tax credit claimed for a taxation year prior to such given taxation year and attributable to such investment will be recaptured by means of a special tax. The portion of the investment tax credit not claimed for a prior taxation year and included in the balance of the investment tax credit carried over to the beginning of the given taxation year will be subtracted from the balance carried forward.

The rules limiting the use of losses in cases of acquisition of control of a corporation will also apply to the balance of the investment tax credit carried over. Accordingly, in the case of acquisition of control of a corporation, the balance of the investment tax credit can be carried over exclusively against the tax attributable to the business, or to its continuation, carried on by the corporation prior to such acquisition of control.

Lastly, the amount of an eligible investment regarding which an investment tax credit is claimed by an eligible corporation must have been paid at the time the investment tax credit is claimed.

2.1.2 Changes to various refundable tax credits granted in the resource regions

Briefly, the three refundable tax credits granted in the resource regions are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a specified region, until December 31, 2009.

To be eligible for any of the three tax credits, a corporation must carry on a certified business, i.e. a business for which an eligibility certificate has been issued by Investissement Québec and whose activities target in particular the manufacturing and processing sectors. However, the eligible corporation must begin to carry on its certified business no later than March 31, 2008.

As mentioned above, the tax assistance granted to manufacturing businesses will henceforth be directed to the investments made by corporations rather than the jobs created or maintained.

However, to provide an adequate transition period towards this new tax assistance mechanism, the period during which eligible corporations can receive any of the three refundable tax credit will be extended by one year. As a corollary, a change will be made to the rules for determining the refundable tax credit for processing activities in the resource regions: the application period of the annual indexing factor will also be extended by one year.⁸⁷

In parallel with the terms and conditions stipulated for the purposes of the investment tax credit relating to manufacturing and processing equipment, the application details of the three refundable tax credits will be changed to prevent, in general, a corporation from benefiting from any of these three tax credits, according to the existing terms and conditions, and the investment tax credit at the same time.

Nevertheless, a corporation eligible for the refundable tax credit for the Vallée de l'aluminium or the refundable tax credit for Gaspésie and certain maritime regions of Québec may benefit, under certain conditions, from the two types of assistance, until December 31, 2015.

❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions, whose rate is 30%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, until December 31, 2009.

To be eligible for this tax credit, a corporation must carry on a certified business, i.e. a business for which an eligibility certificate has been issued by Investissement Québec and whose secondary and tertiary processing activities are carried out, among others, in the wood, metal and non-metallic mineral processing or energy sectors. However, the eligible corporation must begin to carry on its certified business no later than March 31, 2008.

Moreover, to determine its refundable tax credit for a given taxation year, an eligible corporation must compare the payroll of such given calendar year with that of its reference calendar year. This reference calendar year corresponds to the calendar year preceding the one during which the corporation began to carry on a certified business. Lastly, an annual indexing factor of 2% must be considered in determining the tax credit for calendar years 2008 and 2009.

87 The annual indexing factor was introduced with the May 24, 2007 Budget Speech to more directly link the purpose of the tax credit, namely job creation, with the obtaining of tax assistance. In the absence of a correction relating to pay indexing, an eligible corporation could claim tax assistance for a given taxation year without necessarily having created jobs during such calendar year.

■ Extension of the existing tax assistance

A corporation eligible for the refundable tax credit for processing activities in the resource regions may claim this tax credit until December 31, 2010.

For greater clarity, this extension of tax assistance will not affect the beginning of the period of eligibility for the tax credit. Thus, to receive the refundable tax credit for processing activities in the resource regions, an eligible corporation must begin to carry on a certified business no later than March 31, 2008.

■ Impact of the extension on the determination of the tax credit

In the May 24, 2007 Budget Speech, it was announced that an annual indexing factor of 2% would be considered in determining the tax credit for calendar years 2008 and 2009.

Since the tax assistance will be extended until December 31, 2010, the details for determining the tax credit will be changed to stipulate that the 2% annual indexing factor will also apply for 2010.⁸⁸

■ Election of applicable tax assistance

A corporation eligible for the refundable tax credit for processing activities in the resource regions may also be eligible for the new investment tax credit for manufacturing and processing equipment.⁸⁹

A concordant change will be made to the application details of the refundable tax credit for processing activities in the resource regions to incorporate, according to the same terms and conditions, the rules pertaining to the election relating to the application of this tax credit, at the current rate of 30%, or the investment tax credit for manufacturing and processing equipment.

□ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium, whose rate is 30%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay-Lac-Saint-Jean administrative region, until December 31, 2009.

88 Accordingly, the total wages paid by the corporation to its eligible employees will be reduced by 2% for calendar year 2008, by 4% for calendar year 2009 and by 6% for calendar year 2010.

89 In this regard, see subsection 2.1.1.

To be eligible for this tax credit, a corporation must carry on a certified business, i.e. a business for which an eligibility certificate has been issued by Investissement Québec and whose activities consist, in particular, in making finished or semi-finished products from aluminum that has undergone primary processing. However, the eligible corporation must begin to carry on its certified business no later than March 31, 2008.

■ **Extension and election of the tax assistance**

The change relating to the extension of the tax assistance as well as the one relating the election of applicable tax assistance, made to the refundable tax credit for processing activities in the resource regions will also be made, according to the same rules, to the refundable tax credit for the Vallée de l'aluminium. However, the adjustment relating to the application of an annual indexing factor will not be considered for the purposes of the refundable tax credit for the Vallée de l'aluminium.

■ **Other election**

As mentioned above, a corporation eligible for the refundable tax credit for the Vallée de l'aluminium can claim this tax credit, at the 30% rate, until December 31, 2010, or elect to receive, as of a taxation year ending after the day of the Budget Speech, the investment tax credit for manufacturing and processing equipment whose rate can reach 20%.

To foster the development of the aluminum processing, in which the Saguenay-Lac-Saint-Jean region excels, additional changes will be made to the refundable tax credit for the Vallée de l'aluminium to take job creation as well as investments into account.

Briefly, these additional changes will enable a corporation located in this region to continue receiving the refundable tax credit for the Vallée de l'aluminium beyond calendar year 2010 and to combine the two tax assistance mechanisms.

■ **Extension of the refundable tax credit at a reduced rate**

The period during which an eligible corporation may claim the refundable tax credit for the Vallée de l'aluminium will be extended until December 31, 2015, but the rate applicable will be reduced to 20% as of calendar year 2008.

However, to receive a tax credit, an eligible corporation must begin to carry on a certified business no later than during calendar year 2015.⁹⁰

▪ **Impact of the extension on the determination of the reference calendar year**

A corporation already eligible for the refundable tax credit for the Vallée de l'aluminium, at the 30% rate, may elect, at any time as of calendar year 2008, to receive the tax credit at the reduced rate of 20%. In such a case, the reference calendar year of the corporation will become the calendar year preceding the one when the election is made.

For example, if the choice is made for calendar year 2010 when the rate of the refundable tax credit is still 30%, the reference calendar year will become calendar year 2009 and the rate of the tax credit will be 20%.

For greater clarity, as of January 1, 2011, the reference calendar year of a corporation that was already eligible for the tax credit at the 30% rate and has not yet elected to receive the tax credit at the 20% rate will be calendar year 2010.

▪ **Application of the refundable tax credit at the reduced rate and of the investment tax credit for manufacturing and processing equipment**

A corporation eligible for the refundable tax credit for the Vallée de l'aluminium and otherwise eligible for the investment tax credit for manufacturing and processing equipment, may, regarding a taxation year ending after the day of the Budget Speech, exceptionally elect to benefit from both these assistance mechanisms, in lieu of the refundable tax credit for the Vallée de l'aluminium at 30%.

Making this election will irrevocably withdraw the corporation's right to the tax credit at 30% that it could have claimed for the calendar year ending in such taxation year and subsequent calendar years. For greater clarity, a corporation eligible for the refundable tax credit for the Vallée de l'aluminium may continue to receive this tax credit at 30%, without changing its reference calendar year, until its expires, i.e. in calendar year 2010, if it does not elect to benefit from the two assistance mechanisms.

90 For greater clarity, an eligible corporation that begins to carry on a certified business no later than March 31, 2008 may continue to receive this tax credit at 30% until it expires on December 31, 2010.

■ **Clarification applicable to associated corporations**

Moreover, where a corporation eligible for the refundable tax credit for the Vallée de l'aluminium is associated, during a taxation year, with another corporation that is already eligible for any of the three refundable tax credits granted in certain regions, the election to benefit from the two types of tax assistance, for a taxation year ending after the day of the Budget Speech, must be made jointly by the eligible corporation and by any other corporation with which it is associated. This election must be filed no later than the filing deadline applicable to the eligible corporation that wishes to benefit from the two tax assistance mechanisms.⁹¹

Making this election will irrevocably withdraw the right to the tax credit at 30% that the corporation that is a member of the group of associated corporations could have claimed for the calendar year in which the taxation year for which the election is made ends, as well as for subsequent calendar years.

For greater clarity, a member corporation of a group of associated corporations already eligible for the tax credit for the Vallée de l'aluminium may continue to receive this tax credit at 30%, until it expires, only if no other member corporation of such group elects to benefit from the two assistance mechanisms.

□ **Refundable tax credit for Gaspésie and certain maritime regions of Québec**

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec, whose rate is 40%, is allowed with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie-Îles-de-la-Madeleine, Côte-Nord,⁹² Bas-Saint-Laurent⁹³ and the Matane RCM, until December 31, 2009.

To be eligible for this tax credit, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec and whose activities are carried out in the development of marine or wind-power resources sectors, subject to the specific features applicable to each administrative region. However, the eligible corporation must begin to carry on its certified business no later than March 31, 2008.

91 Assuming that many member corporations of a group of associated corporations are thus eligible for the two assistance mechanisms, the election must be filed no later than the earliest filing deadline applicable to such corporations.

92 The Côte-Nord region is an eligible region only regarding processing of sea products activities and activities carried out in the marine biotechnology and mariculture sector.

93 The Bas-Saint-Laurent region other than the Matane RCM is an eligible region only regarding activities carried out in the marine biotechnology and mariculture sector.

Special terms and conditions apply where an eligible corporation operates in the marine biotechnology and mariculture sectors. In such a case, the tax credit is allowed on the entire payroll attributable to eligible employees of the corporation, rather than regarding the increase in payroll, until December 31, 2009.

■ **Extension and election of tax assistance**

The change relating to the extension of the tax assistance as well as the change relating to the election of applicable tax assistance, made to the refundable tax credit for processing activities in the resource regions will also be made, according to the same rules, to the refundable tax credit for Gaspésie and certain maritime regions of Québec. However, the adjustment relating to the application of an annual indexing factor will not be considered for the purposes of the refundable tax credit for Gaspésie and certain maritime regions of Québec. In addition, the changes do not apply regarding eligible corporations operating in the marine biotechnology and mariculture sectors.

■ **Other election**

As mentioned above, a corporation eligible for the refundable tax credit for Gaspésie and certain maritime regions of Québec can claim this tax credit, at the 40% rate, until December 31, 2010 or elect to receive, as of a taxation year ending after the day of the Budget Speech, the investment tax credit for manufacturing and processing equipment whose rate can reach 40%.

While the situation of manufacturing employment in the resource regions has improved in recent years, it remains worrisome in the Gaspésie-Îles-de-la-Madeleine region. In addition, the region's industrial structure is poorly diversified. Accordingly, it is important to establish an environment conducive to job creation and to foster the region's economic diversification.

Accordingly, the notion of certified business, currently restricted to the marine resources development and wind-power sectors, will be broadened to all manufacturing activities carried out in the Gaspésie-Îles-de-la-Madeleine region. Furthermore, additional changes will be made to the refundable tax credit for Gaspésie and certain maritime regions of Québec.

Briefly, these additional changes will enable a corporation located in these regions to continue receiving the refundable tax credit for Gaspésie and certain maritime regions of Québec beyond calendar year 2010 and to combine the two tax assistance mechanisms.

■ Broadening of the notion of certified business

The notion of “certified business” will be broadened, regarding the Gaspésie–Îles-de-la-Madeleine region, as of calendar year 2008, to designate as well a business whose activities are manufacturing activities and, incidentally, the commercialization of the results of such activities.⁹⁴

For reference purposes, the activities included under codes 31 to 33 of the North American Industry Classification System (NAICS codes)⁹⁵ will generally be manufacturing activities for the purposes of this tax credit.

The eligible region, regarding a certified business whose activities are manufacturing activities, will consist of the territory included in the administrative region of Gaspésie–Îles-de-la-Madeleine.⁹⁶

Moreover, the Côte-Nord administrative region and the Matane RCM will continue to be eligible regions regarding a certified business whose activities are processing of sea products. Similarly, the Matane RCM will continue to be an eligible region regarding a certified business whose activities are the making of wind turbines and the production of wind power.

■ Changes similar to those made to the refundable tax credit for the Vallée de l'aluminium

The changes relating to the extension until 2015 of the tax credit at a reduced rate of 20%, the determination of the reference calendar year and the application of the tax credit at the reduced rate as well as the investment tax credit made to the refundable tax credit for the Vallée de l'aluminium will also be made, according to the same rules, to the refundable tax credit for Gaspésie and certain maritime regions of Québec. However, these changes will not apply regarding eligible corporations operating in the marine biotechnology and mariculture sectors.

94 For greater clarity, wind-power generation will continue to be an eligible activity for the purposes of the tax credit.

95 A description of the NAICS codes is available on the Statistics Canada website: <http://www.statcan.ca>

96 Moreover, in view of the broadening of the notion of certified business, some activities covered by the refundable tax credit for processing activities in the resource regions may also constitute activities of a certified business for the purposes of the refundable tax credit for Gaspésie and certain maritime regions of Québec. An eligible corporation located in the Gaspésie–Îles-de-la-Madeleine region may thus elect to receive either the refundable tax credit for processing activities in resource regions or this tax credit, while a corporation located in one of the other resource regions may continue to claim the refundable tax credit for processing activities in the resource regions.

■ Special cases of marine biotechnology and mariculture

An eligible corporation operating in the marine biotechnology or mariculture sector may continue to benefit from the refundable tax credit for Gaspésie and certain maritime regions of Québec at the 40% rate until December 31, 2015.

To receive the tax credit, an eligible corporation must begin to carry on a certified business no later than during calendar year 2015.

In addition, an eligible corporation operating in the marine biotechnology or mariculture sector that, otherwise, could be eligible for the investment tax credit for manufacturing and processing equipment may exceptionally benefit from both these assistance mechanisms, regarding a taxation year ending after the day of the Budget Speech.

2.2 Elimination of the tax on capital for manufacturing corporations

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. A rate of 0.36% is currently applied to the paid-up capital of corporations that are not financial institutions.

The April 21, 2005 Budget Speech introduced a capital tax credit to enable corporations, other than financial institutions, that invest in manufacturing and processing equipment, to significantly reduce their capital tax burden.

The capital tax credit has enabled many corporations to substantially reduce their capital tax burden. However, the manufacturing sector faces many challenges because of, in particular, the strength of the Canadian dollar compared to its American counterpart and growing competition from emerging economies. In this context, it is important to improve the tax environment for corporations in this sector to help them adapt to this new situation.

Accordingly, to further reduce the tax burden on companies in the manufacturing sector, a deduction will be allowed to manufacturing corporations, in calculating their paid-up capital, to enable them to completely eliminate their tax on capital. As a corollary, the capital tax credit will be eliminated.

❑ Manufacturing corporation

The expression “manufacturing corporation”, for a given taxation year, designates a corporation at least 20% of whose activities consist of manufacturing and processing activities.

Two items are taken into consideration to determine the proportion of a corporation's activities attributable to manufacturing and processing activities: assets and labour. More specifically, the proportion of a corporation's manufacturing and processing activities will be determined using the following formula:

$$\text{Proportion of manufacturing and processing activities} = \frac{\text{CMPC} + \text{CMPL}}{\text{CC} + \text{CL}} .$$

In this formula:

- CMPC = cost of manufacturing and processing capital;
- CMPL = cost of manufacturing and processing labour;
- CC = cost of capital;
- CL = cost of labour.

Manufacturing and processing activities are activities that, under the Canadian *Income Tax Regulations*, constitute eligible activities for the purposes of determining manufacturing and processing profits.

Similarly, the notions of cost of manufacturing and processing capital,⁹⁷ cost of manufacturing and processing labour,⁹⁸ cost of capital and cost of labour will be defined according to the criteria used in the *Income Tax Regulations* for the purposes of determining profits from manufacturing and processing.

97 Briefly, this item is equivalent to 100/85 of the portion of the capital cost that reflects the degree to which each asset is used directly in eligible manufacturing and processing activities of the corporation during the year.

98 Briefly, this item is equivalent to 100/75 of the wages and salaries paid to employees for the time during which they were directly engaged in eligible manufacturing and processing activities and the portion of the payments made to third parties that is included in the cost of labour for services directly related to such eligible activities.

□ Deduction in the calculation of paid-up capital

A manufacturing corporation whose proportion of activities attributable to manufacturing and processing activities, for a given taxation year, is 50% or more, may claim a deduction in calculating its paid-up capital, for such taxation year, corresponding to the amount of such paid-up capital. Such corporation will thus completely eliminate the capital tax regarding such taxation year.

Moreover, where such proportion, for a given taxation year, is between 50% and 20%, the deduction a manufacturing corporation may claim in calculating its paid-up capital, regarding such taxation year, is reduced linearly. The deduction allowed will be equal to paid-up capital multiplied by the result of the following formula:

$$\text{Deduction allowed} = \text{Paid-up capital} \times \frac{(\text{PAMP} - 20\%)}{30\%} .$$

In this formula, the initials PAMP stand for the proportion of activities attributable to manufacturing and processing activities.

For example, a manufacturing corporation whose proportion of activities attributable to manufacturing and processing activities is 35% may claim a deduction equal to 50% of its paid-up capital.⁹⁹

This deduction will apply regarding a taxation year ending after the day of this Budget Speech. However, where a manufacturing corporation's taxation year includes the day of this Budget Speech, this deduction will apply in proportion to the number of days of such taxation year that follow the day of this Budget Speech.

Moreover, where the notion of paid-up capital must be used to determine a corporation's eligibility for a fiscal measure or the amount of assistance granted to it, such paid-up capital will be the one calculated before the deduction regarding a manufacturing corporation.

99 I.e. $(35\% - 20\%) / 30\% = 50\%$.

❑ Effect of the elimination of the tax on capital for certain manufacturing corporations on the capital tax credit

Briefly, the capital tax credit regarding certain types of investments enables a corporation, other than a financial institution, to claim, for a taxation year, a non-refundable capital tax credit equal to 15% of the amount of eligible investments it made during such taxation year.¹⁰⁰

Eligible investments for the purposes of the capital tax credit are manufacturing and processing equipment, i.e. assets of class 43 of Schedule B of the *Regulation respecting the Taxation Act*.¹⁰¹

Accordingly, a corporation can receive this capital tax credit, for a taxation year, up to the amount of tax on capital otherwise payable by it for such taxation year. Where the capital tax credit exceeds the tax on capital otherwise payable by the corporation for the taxation year, such excess can be carried forward to subsequent taxation years and applied against the tax on capital payable by it for such years.

Essentially, the objective of the capital tax credit is to support the modernization projects of manufacturing companies by ensuring that the tax on capital normally payable on new investments is completely offset, over many years. In addition, the high rate of this credit substantially reduces this tax on other existing assets. The elimination of the tax on capital for manufacturing corporations will ensure that this objective is fully achieved.

Accordingly, since the use of the capital tax credit is conditional on a tax on capital being otherwise payable, the elimination of the tax on capital for manufacturing corporations will result in the withdrawal of the capital tax credit as of the day of this Budget Speech.

100 The rate of the capital tax credit was initially set at 5% in the April 21, 2005 Budget Speech. It was raised to 10% in the February 20, 2007 Budget Speech for investments made after that date and to 15% in Information Bulletin 2007-9, for investments made after November 23, 2007. However, for certain investments made in the forestry sector, the 15% rate has applied since March 23, 2006.

101 However, these assets must satisfy certain conditions to qualify as eligible investments, among others, the obligation to begin being used within a reasonable time, during a period of at least 730 days, only in Québec and mainly in the course of carrying on a business. In addition, the assets must be new.

More specifically, eligible investments made as of this day will no longer give rise to a non-refundable capital tax credit. However, subject to existing transition rules, class 43 assets acquired in accordance with a written obligation contracted no later than the day of the Budget Speech or whose construction, by the taxpayer or on his behalf, had started the day of the Budget Speech, will be eligible investments for the purpose of the 15% capital tax credit.¹⁰²

Moreover, the capital tax credit relating either to an eligible investment made during the taxation year including the day of the Budget Speech, or an eligible investment covered by the transition rules, as well as any unused balance of capital tax credit may be applied against the tax on capital otherwise payable for such taxation year, or carried forward to a subsequent taxation year, according to the stipulated terms and conditions. However, any balance of the capital tax credit unused at the end of the taxation year including December 31, 2010 will be cancelled because of the complete elimination of the tax on capital.

2.3 Introduction of a tax credit for the development of e-business

In the June 12, 2003 Budget Speech, many fiscal measures relating to carrying out activities in certain designated sites, in particular the measures relating to E-Commerce Place and the Centre national des nouvelles technologies de Québec (CNNTQ), were eliminated. However, transition rules enable corporations eligible for these measures to continue to receive the tax assistance, according to the stipulated terms and conditions, until no later than December 31, 2013.

The elimination of these measures was announced in a context of tightening tax expenditures and was designed to put an end to tax assistance linked to the carrying out of activities in a specified geographic location.

Moreover, the Task Force on tax Assistance for the Resource Regions and the New Economy (Task Force) was set up to carry out a detailed analysis of the impact, on companies in Québec, of the end of the fiscal measures intended, among others, for companies in the new economy.¹⁰³

102 This rate will be reduced to 10% where class 43 assets are acquired in accordance with a written obligation entered into no later than November 23, 2007, or whose construction, by the taxpayer or on his behalf, was underway on November 23, 2007, and to 5% where such assets are acquired in accordance with a written obligation entered into no later than February 20, 2007, or whose construction, by the taxpayer or on his behalf, was underway on February 20, 2007.

103 *Supra*, note 78.

The report of Task Force was released on February 7, 2008.¹⁰⁴ Briefly, the Task Force proposes maintaining the tax assistance for companies in the information technology sector that carry out innovative activities and allow this assistance for carrying out activities throughout Québec.

Since the information technology sector faces very tough global competition, it is important to maintain the jobs in this sector to limit the exodus of specialized workers.

Accordingly, to consolidate the development of information technology throughout Québec, a temporary refundable tax credit will be introduced for the development of e-business in information technologies, hereunder called “tax credit for the development of e-business”.

More specifically, an eligible corporation may claim a refundable tax credit equal to 30% of the eligible salaries it incurs as of the day following the day of the Budget Speech and paid to eligible employees to carry out eligible activities. An eligible corporation may claim this tax credit regarding such salaries incurred until December 31, 2015. The maximum amount of the tax credit that an eligible corporation may claim regarding an eligible employee, for a taxation year, will be limited to \$20 000, however, calculated on an annual basis.

❑ Eligible corporation

In general, any corporation, other than an excluded corporation, which, during a taxation year, has an establishment in Québec where it carries on a business whose activities are part of the information technology sector, may claim for such year, under certain conditions, the tax credit for the development of e-business.

However, such corporation will have to obtain, each year, an eligibility certificate from Investissement Québec¹⁰⁵ confirming that at least 75% of its activities for the taxation year constituted eligible activities and that at any time, such eligible activities required a minimum of six full-time eligible employees.

104 *On Equal Terms – Report of the Task Force on Tax Assistance for the Resource Regions and the New Economy.*

105 On December 20, 2007, Information Bulletin 2007-10 announced that the non-tax parameters of certain fiscal measures involving the participation of a public organization will be consolidated in a framework law. Accordingly, the non-tax parameters administered by Investissement Québec relating to the determination of the eligibility of a corporation (as well as those, indicated below, relating to the determination of the eligibility of employees) for the tax credit for the development of e-business will be incorporated into the framework law.

❑ Eligible activities

For the purposes of this tax credit, the expression “eligible activities” means the following activities:

- information technologies consulting services relating to technology, systems development, e-business processes and solutions (for instance, strategic planning, reconfiguration of business processes and technology architecture design);
- development, integration, maintenance and evolution of information systems (for instance, distribution packages, software and computer programs) and technology infrastructure (for instance, technology architecture upgrading and integration of hardware and software components);
- design and development of e-commerce solutions (for instance, portals, search engines and transactional websites);
- development of security and identification services (for instance, electronic imaging, artificial intelligence and interface) relating to e-commerce activities (for instance, security over internet networks).

However, the following activities do not constitute eligible activities:

- the operation of an e-business solution (for instance, processing of electronic transactions over a transactional website, and management and operation of information systems and applications and infrastructures arising from e-commerce activities);
- the operation of a customer contact centre (for instance, customer relations management department, arising from e-commerce activities).

❑ Eligible employee

The expression “eligible employee” of an eligible corporation, for a taxation year, means an employee, other than a specified shareholder of the eligible corporation, of an establishment in Québec of the eligible corporation for which Investissement Québec has issued, for such year, an eligibility certificate certifying that the following conditions have been satisfied:

- he held a full-time job involving at least 26 hours of work a week, for an expected minimum period of 40 weeks;¹⁰⁶

106 As a result of this last requirement, seasonal jobs, such as student jobs, are, in particular, excluded.

- at least 75% of his duties consisted in carrying out, supervising or directly supporting the work relating to the execution of an eligible activity by the eligible corporation.

Moreover, administrative duties such as management of operations, accounting, finances, legal affairs, public relations, communications, prospecting for mandates, and human and physical resources management will not be considered tasks relating to the execution of an eligible activity.

For greater clarity, Investissement Québec may issue an eligibility certificate for part of a taxation year of an eligible corporation, in which case the eligibility certificate must indicate the period of eligibility of the employee.

As mentioned earlier, to be eligible for the tax credit for a taxation year, a corporation must undertake to maintain in its employ, at all times, a minimum of six eligible employees. Accordingly, assuming a corporation does not honour its commitment, for such taxation year, no eligibility certificate will be issued for the eligible employees of the corporation.

However, Investissement Québec may issue eligibility certificates when the eligible corporation is in a position to demonstrate, to the satisfaction of Investissement Québec, that the failure to honour such undertaking is attributable to exceptional circumstances beyond the corporation's control, such as the departure of employees and the impossibility of filling concomitantly these vacant positions. However, such employees must be replaced within a reasonable time, taking the availability of skilled workers into consideration.

❑ Eligible salary

The expression “eligible salary” of an eligible corporation, for a taxation year, means the salary calculated according to the *Taxation Act* and incurred by the eligible corporation, in the year, regarding its eligible employees for such year.

More specifically, the total salary incurred regarding an eligible employee may constitute, subject to the rules described below, an eligible salary for the purposes of this tax credit.

More specifically, the amount of salaries incurred by an eligible corporation, during a taxation year, must be reduced by the amount of any government assistance, any non-government assistance, and any profit or benefit attributable to such salaries, according to the usual rules.

Moreover, the eligible salary, regarding an eligible employee, will be limited to \$66 667, calculated on an annual basis, i.e. on the basis of the number of days of the taxation year of the eligible corporation where the employee qualifies as an eligible employee.

Accordingly, at the 30% rate, the amount of the tax credit, for a taxation year, may not exceed \$20 000 per eligible employee, on an annual basis.

Lastly, the eligible salaries of an eligible corporation must have been paid at the time the claim for the tax credit is filed with Revenu Québec.

❑ Other application details

In order to claim the tax credit for the development of e-business, for a taxation year, an eligible corporation must enclose with its tax return, for such year, a form prescribed by the Revenu Québec, a copy of the eligibility certificate issued for it as well as a copy of the certificates issued for its eligible employees for whom it is claiming a tax credit.

Moreover, in the event that eligible salaries for which a tax credit has been granted are refunded to an eligible corporation, in whole or in part, the tax credit granted regarding the amount thus refunded will be recaptured by means of a special tax.

Lastly, the tax legislation contains rules designed to prevent the aggregation of tax assistance regarding an expenditure that may give rise to more than one tax credit for more than one taxpayer or for the same taxpayer. For greater clarity, these rules will also apply to the corporations eligible for the tax credit for the development of e-business.

In addition, a similar rule will apply to ensure that, where the activities of an eligible corporation are covered both by this tax credit and by a tax holiday, the eligible activities that may give rise to this tax credit may not constitute eligible activities for the purposes of such a tax holiday. In this regard, a concordant amendment will be made to the legislation relating to such a tax holiday.

❑ Election relating to the application of another tax credit

As mentioned above, various fiscal measures relating to the carrying out of activities in certain designated sites were eliminated in the June 12, 2003, Budget Speech. However, transition rules enable corporations eligible for these measures to continue to receive the tax assistance, according to the stipulated terms and conditions, until no later than December 31, 2013.

A corporation eligible for any of these measures can thus receive a tax credit relating to salaries for an innovative project,¹⁰⁷ a tax credit relating to the carrying out of specified activities in a designated site¹⁰⁸, a tax credit relating to the salaries of employees working in E-Commerce Place or the refundable credit for the employer contribution to the Health Services Fund.

Furthermore, a corporation that carries out specified activities in the field of biotechnology in a biotechnology development centre (BDC) can claim a refundable tax credit regarding the salaries paid to specified employees, until no later than December 31, 2013.

Lastly, an eligible corporation can claim a refundable tax credit for major employment generating projects regarding the eligible salaries paid to eligible employees in the course of carrying out an eligible contract, no later than December 31, 2016.

A corporation eligible for any of these tax credits or the refundable credit for the employer contribution to the Health Services Fund, hereunder called “other tax credit”, and that would otherwise be eligible for the tax credit for the development of e-business, may, for a taxation year ending after the day of the Budget Speech, irrevocably elect to receive, in lieu of such other tax credit, the new tax credit for the development of e-business, for such taxation year.

Making this election will irrevocably withdraw the right to such other tax credit that the corporation could have claimed for such taxation year and subsequent taxation years. More specifically, a corporation eligible for one of the other tax credits may continue to receive such other tax credit, until it expires, if it does not elect to claim the tax credit for the development of e-business.

Moreover, where a corporation eligible for the tax credit for the development of e-business is associated, during a given taxation year, with another corporation that is eligible for another tax credit, the election to claim the tax credit for the development of e-business, for a taxation year ending after the day of the Budget Speech, must be made jointly by the eligible corporation and by any other corporation with which it is associated. Such election must be filed, regarding taxation years ending in the same calendar year, no later than the date that is the earliest of the filing deadlines applicable to the member corporations of the group of associated corporations that are eligible for another tax credit or the tax credit for the development of e-business.

107 Such project can be carried out in the field of information and communications technologies in an information technology development centre (CDTI), a new economy centre (CNE) or, in the biotechnology field, in a biotechnology development centre.

108 I.e. CNEs, CDTIs, the Cité du multimédia and the CNNTQ.

Making this election will irrevocably withdraw the right to the other tax credit that the member corporation of the group of associated corporations could have claimed for the taxation year of such corporation that ends in the same calendar year as the other taxation year regarding which the election is made, as well as for subsequent taxation years. For greater clarity, a member corporation of a group of associated corporations already eligible for one of the other tax credits may continue to receive such other tax credit, until it expires, if no other member corporation of such group elects to take advantage of the tax credit for the development of e-business.

☐ **Excluded corporation**

The expression “excluded corporation”, for a taxation year, means:

- a corporation that is tax-exempt;
- a Crown corporation or a subsidiary wholly controlled by such corporation.

☐ **Period of eligibility for the tax credit**

The tax credit for the development of e-business may be granted to an eligible corporation for eligible salaries incurred by it and paid to its eligible employees after the day of the Budget Speech and before January 1, 2016.

2.4 Introduction of a tax credit for francization in the workplace

The government considers learning French essential to the social, cultural and professional integration of immigrants who establish themselves in Québec. For that reason, it is crucial that they undertake a process of francization in the workplace.

However, despite the undeniable benefit relating to the francization of employees, the costs that their participation in on-the-job training causes for employers can constitute a serious obstacle to their taking advantage of the various programs available.

Accordingly, to encourage the francization of immigrants whose knowledge of French is insufficient to communicate in everyday life or at work, while reducing the burden such expenditure represents for employers, temporary tax assistance for francization in the workplace will be introduced.

Briefly, this assistance will consist of a 30% refundable tax credit that any eligible employer operating in Québec may claim regarding training expenditures relating to francization it incurs for its employees.

Moreover, employers of the manufacturing sector already benefit from a refundable tax credit for manpower training regarding, in particular, an expenditure relating to francization, but only regarding an employee whose duties are attributable to an activity that relates to the manufacturing sector.

Accordingly, with the new tax credit, a training expenditure for francization incurred by such employers for their employees may henceforth give rise to tax assistance, regardless of the duties of the employees.

2.4.1 Tax credit for francization in the workplace

□ Eligible employer

The expression “eligible employer”, for a taxation year, means a corporation, other than an excluded corporation, or a partnership that, during such year, has an establishment in Québec.

In the case where the eligible employer is a partnership, eligibility for the tax credit will be determined with reference to the partnership, but the tax credit will be granted to each member of the partnership that is a corporation, other than an excluded corporation, for its taxation year in which the fiscal period of the partnership ends, based on its respective share of the income or loss of the partnership for such fiscal period.

■ Excluded corporation

The expression “excluded corporation”, for a taxation year, means:

- a corporation exempt from tax for such year;
- a Crown corporation or a subsidiary wholly controlled by such corporation.

□ Eligible employee

The expression “eligible employee” of an eligible employer, for a taxation year, means an employee of an establishment of such employer, located in Québec, and who, at any time of the taxation year, is an immigrant, other than an excluded employee.

To that end, an immigrant, at any time of a taxation year, is a person who, at such time, holds any of the following statuses, within the meaning of the Canadian *Immigration and Refugee Protection Act*:

- protected person;
- permanent resident;
- temporary resident or holder of a temporary resident permit, who resides in Canada during the 18-month period preceding that time.

■ Excluded employee

The expression “excluded employee”, in relation to an eligible employer, means:

- where the eligible employer is a corporation, a specified shareholder¹⁰⁹ of such corporation or, where such corporation is a cooperative, a specified member¹¹⁰ of such corporation;
- where the eligible employer is a partnership, a member of such partnership, a specified shareholder or specified member, as the case may be, of such member, an employee not at arm’s length with the member of such partnership, the specified shareholder or the specified member, as the case may be;
- an employee regarding whom it is reasonable to consider that one of the reasons for which he works for the eligible employer is to enable the latter to claim the tax credit in his regard;
- an employee regarding whom it is reasonable to consider that the employment conditions with the eligible employer have been modified chiefly for the purpose of enabling the eligible employer either to claim the tax credit in his regard or to increase the tax credit in his regard.

□ Eligible training

The expression “eligible training”, regarding an eligible employee of an eligible employer, means a course designed to foster the francization of immigrants in which the eligible employee of the eligible employer is enrolled, given by an eligible trainer under a contract entered into by the employer and the trainer.

109 Briefly, the expression “specified shareholder” of a corporation, in a taxation year, means, wherever it is used in this subsection, a taxpayer who is the owner, directly or indirectly, at any time of the year, of at least 10% of the issued shares of any class of the capital stock of the corporation or of any other corporation related to it.

110 Briefly, the expression “specified member” of a corporation that is a cooperative, in a taxation year, means, wherever it is used in this subsection, a member holding, directly or indirectly, at any time of the year, of at least 10% of the votes at a meeting of the members of the cooperative.

■ Excluded training

For greater clarity, the expression “eligible training”, regarding an eligible employer does not include a course given because the employer must comply with a statute or regulation.

□ Eligible trainer

The expression “eligible trainer” means a recognized educational institution or a certified trainer.

■ Recognized educational institution

The expression “recognized educational institution” refers to an educational institution that is:

- either at the secondary or college level under the ministère de l'Éducation, du Loisir et du Sport;
- certified for the purposes of the grant under section 77 of the *Act respecting private education*;
- mentioned on the list drawn up by the Minister of Education, Leisure and Sport under any of subparagraphs 1 to 3 of the first paragraph of section 56 of the *Act respecting financial assistance for education expenses*;
- or owned by a person who holds a license issued by the Minister of Education, Leisure and Sport under section 12 of the *Act respecting private education*, provided such institution offers a vocational training or vocational education program covered by chapter 1 of such Act.

■ Certified trainer

The expression “certified trainer” means a trainer or training organization certified by the Minister of Employment and Social Solidarity under the *Act to promote workforce skills development and recognition* or a regulation adopted under that statute.

■ Excluded trainer

For greater clarity, the expression “eligible trainer” regarding an eligible employer does not include:

- an employee of the eligible employer;
- a specified shareholder, a specified member or a member, as the case may be, of the eligible employer;

- an employee, a specified shareholder or a specified member of a person with whom the eligible employer is not at arm's length;
- an employee or a member of a partnership with which the eligible employer is not at arm's length;
- an employee, a specified shareholder or a specified member of a person that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer;
- an employee, a specified shareholder or a specified member of a person that is a specified shareholder, a specified member or a member, as the case may be, of a person with whom the eligible employer is not at arm's length;
- a member of a partnership that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer or of a person with whom the eligible employer is not at arm's length;
- a specified shareholder or a specified member of a corporation that carries on a personal service business¹¹¹ or a member of a partnership that carries on such a business, or an employee or such a corporation or partnership, where a shareholder or a member, as the case may be, is both a specified shareholder or a specified member of the corporation or a member of the partnership, as the case may be, and:
 - either an employee, a specified shareholder or a specified member of the eligible employer or of a person with whom the eligible employer is not at arm's length,
 - or an employee, a specified shareholder or a specified member of a person or a member of a partnership that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer or of a person with whom the eligible employer is not at arm's length.

□ Details of calculation of the tax credit

An eligible employer may claim a refundable tax credit, for a taxation year, equal, for each eligible employee, to 30% of the eligible training expenditures incurred in his regard during such taxation year.

¹¹¹ The expression "personal service business" means a service business that a corporation carries on in a taxation year where an employee who supplies services on behalf of the corporation ("employee incorporated as a corporation"), or a person related to an employee incorporated as a corporation, is a specified shareholder of the corporation and such employee incorporated as a corporation could reasonably be likened to an employee of the person or of the partnership to which it supplied services, were it not for the existence of the corporation, unless the corporation employs throughout the year in the business more than five full-time employees or if the amount received or receivable by the corporation in the year for services supplied is paid or payable by a corporation to which it is associated in the year.

□ Eligible training expenditure

The expression “eligible training expenditure” of an eligible employer regarding eligible training for a taxation year means an amount equal, subject to the clarifications made below, to the total of the following amounts it incurs regarding such year:

- an amount equal to the cost of the eligible training in which an eligible employee of the eligible employer is enrolled;
- an amount equal to the lesser of the following amounts:
 - the wage or salary, calculated according to part I of the *Taxation Act*, paid to an eligible employee of the eligible employer and attributable to the period during which he attended the eligible training;
 - an amount equal to double the cost of the eligible training in which an eligible employee of the eligible employer is enrolled.

For greater clarity, the cost of eligible training, regarding an eligible employee, does not include travel, meal or lodging expenses incurred regarding the eligible employee to enable him to attend the training.

Lastly, the expenditures must have been paid at the time the claim for the tax credit is filed with Revenu Québec.

■ *Act to promote workforce skills development and recognition*

In the case of an eligible employer to which the *Act to promote workforce skills development and recognition*¹¹² applies, the amount of its eligible training expenditure for a taxation year or a fiscal period, as the case may be, is equal to the lesser of the following two amounts:

- the amount of its eligible training expenditure otherwise determined for the taxation year or the fiscal period, as the case may be;
- the amount equal to the excess:
 - of the amount of its eligible training expenditure determined for the purposes of the *Act to promote workforce skills development and recognition* for a calendar year ending in the taxation year or fiscal period, as the case may be; over

112 This legislation requires an employer whose payroll exceeds \$1 million regarding a calendar year to participate, for such year, in the development of manpower skills by allocating an amount representing at least 1% of his payroll to training expenditures. If, for a year, the employer does not satisfy this requirement, he must pay a contribution to the Workforce Skills Development and Recognition Fund equal to the difference between the amount of the minimum participation required of him and the amount actually allocated to training expenditures.

- the amount equal to the portion of such expenditure that the eligible employer must allocate to training or pay as a contribution to the Workforce Skills Development and Recognition Fund for such calendar year under the *Act to promote workforce skills development and recognition*.¹¹³

■ **Apparent payment**

The total amount of the eligible training expenditure incurred regarding an eligible employee by an eligible employer must be reduced by the amount of any apparent payment.

In this context, the expression “apparent payment” means an amount paid or payable by an eligible trainer either for the use of rooms, facilities or equipment, or for the supply of services, that can reasonably be considered as included in the eligible training expenditure.

■ **Government and non-government assistance**

The total amount of eligible training expenditures incurred for an eligible employee by an eligible employer must be reduced by the amount of any government assistance, any non-government assistance and any profit or gain, according to the usual rules.

□ **Other application details**

■ **Special tax**

If a training expenditure of an eligible employer for which a tax credit has been granted is refunded to the eligible employer, the tax credit thus granted will be recaptured by means of a special tax.

■ **Application**

An employer that wishes to claim this tax credit, for a taxation year, must enclose with his tax return, for such year, the form prescribed by the Minister of Revenue.

113 In the case of an eligible employer exempt, for a year, under the *Act to promote workforce skills development and recognition* or a regulation adopted under that act, from payment of an amount representing at least 1% of his payroll and of a contribution to the Workforce Skills Development and Recognition Fund, the eligible training expenditure must be calculated as though the eligible employer was not so exempt.

❑ Period of eligibility for the tax credit

The tax credit will apply regarding an eligible training expenditure incurred:

- after the day of the Budget Speech; and
- before January 1, 2012.

In addition, the eligible training expenditure must relate to eligible training beginning:

- after the day of the Budget Speech; and
- before January 1, 2012.

However, the tax credit will not apply regarding an eligible training expenditure incurred in relation to training offered in accordance with an obligation contracted no later than the day of the Budget Speech.

2.4.2 Concordance changes for the manufacturing sector

Because of the introduction of the refundable tax credit for francization in the workplace, concordance changes must be made to the refundable tax credit for manpower training in the manufacturing sector.

❑ Eligible training expenditure

■ Expenditure relating to francization

Where an eligible employer operates in the manufacturing sector, an eligible training expenditure relating to francization in the workplace could be eligible for both the refundable tax credit for francization in the workplace and the refundable tax credit for manpower training in the manufacturing sector.

Moreover, while the refundable tax credit for francization in the workplace may be claimed for any employee of an establishment of an eligible employer located in Québec, and who is an immigrant, other than an excluded employee, the refundable tax credit for manpower training in the manufacturing sector covers only the employees of an establishment of an eligible employer located in Québec, other than an excluded employee, whose duties consist mainly in carrying out or supervising tasks attributable to an eligible activity, i.e. an activity relating to the manufacturing sector.

Accordingly, so that a training expenditure relating to francization can allow an eligible employer in the manufacturing sector to receive tax assistance regarding all his employees otherwise eligible for the refundable tax credit for francization in the workplace, the legislation will be amended so that henceforth a training expenditure gives rise solely to this tax credit and no longer constitutes an eligible training expenditure for the purposes of the refundable tax credit for manpower training in the manufacturing sector.

- **Application date**

This change will apply regarding an eligible training expenditure relating to francization incurred after the day of the Budget Speech in relation to eligible training beginning after that day.

For greater clarity, a training expenditure for francization can constitute an eligible training expenditure for the purposes of the refundable tax credit for manpower training in the manufacturing sector if it is incurred no later than the day of the Budget Speech in relation to eligible training that began no later than that day.

- **Apparent payment**

When the refundable tax credit for manpower training in the manufacturing sector was introduced, a contribution rule was stipulated to prevent the tax credit being granted for certain amounts that an eligible employer might obtain from an eligible trainer.

To standardize the calculation of the eligible training expenditure for the purposes of the refundable tax credit for manpower training in the manufacturing sector and for the purposes of the refundable tax credit for francization in the workplace and, since the notion of apparent payment corresponds more closely to the category of payment that should reduce the eligible training expenditure, a change will be made to the refundable tax credit for manpower training in the manufacturing sector to replace the contribution rule with the rules relating to an apparent payment.

- **Application date**

This change will apply for the eligibility period stipulated for the purposes of the refundable tax credit for manpower training in the manufacturing sector at the time of its introduction.

□ **Act to promote workforce skills development and recognition**

An employer may be eligible for both the refundable tax credit for francization in the workplace and the refundable tax credit for manpower training in the manufacturing sector.

The calculation of the eligible training expenditure for the purposes of these two refundable tax credits is identical.

However, the limit based on the eligible training expenditure determined for the purposes of the *Act to promote workforce skills development and recognition* cannot be determined for one tax credit independently of the other tax credit.

Consequently, to avoid a circular calculation, the legislation will be amended to stipulate that the calculation of the refundable tax credit for francization in the workplace must be made before that of the refundable tax credit for manpower training in the manufacturing sector.

Accordingly, to allow for the fact that an employer to which the *Act to promote workforce skills development and recognition* applies may be eligible for the two tax credits, the legislation will be amended to stipulate that the amount of its eligible training expenditure for a taxation year or a fiscal period, as the case may be, will be equal, for the purposes of the refundable tax credit for manpower training in the manufacturing sector, to the lesser of the following two amounts:

- the amount of its eligible training expenditure otherwise determined for the taxation year or the fiscal period, as the case may be;
- the amount equal to the excess:
 - of the amount of its eligible training expenditure determined for the purposes of the *Act to promote workforce skills development and recognition* for a calendar year ending in the taxation year or fiscal period, as the case may be; over
 - the total:
 - of the amount equal to the portion of such expenditure that it must allocate to training or pay as a contribution to the Workforce Skills Development and Recognition Fund for such calendar year under the *Act to promote workforce skills development and recognition*; and
 - the amount of its eligible training expenditure determined for the purposes of the refundable tax credit for francization in the workplace.

■ **Application date**

These changes will apply regarding a taxation year or a fiscal period, as the case may be, that includes the day after the day of the Budget Speech.

2.5 Improvement to the tax credit for on-the-job training periods

The refundable tax credit for on-the-job training periods is designed to foster the upgrading of the professional skills of students and apprentices and support the efforts of businesses that contribute to the development of their skills.

Briefly, a taxpayer may, under certain conditions, claim a refundable tax credit for an on-the-job training period when, in particular, a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec (eligible employer). The rate of the tax credit is 30% if the eligible employer is a corporation and 15% in other cases.

Québec's labour market must be more accommodating to handicapped persons and immigrants to respond, in part, to the growing labour needs of businesses.

However, handicapped persons and immigrants must overcome physical or social obstacles that can be colossal. It then becomes essential to offer them the opportunity to develop their full potential and obtain employment. The integration of handicapped persons and immigrants into the labour market must be prepared during the training that leads to such integration.

Consequently, to further encourage employers to offer training periods to handicapped persons and to immigrants, the refundable tax credit for on-the-job training periods will be improved for such trainees.

The maximum number of hours of support that can be included in calculating the eligible expenditure for a handicapped person who is an eligible trainee will also be increased, as will its weekly cap.

□ Eligible trainee

Under existing rules, the expression “eligible trainee” of an eligible employer at a given time of a taxation year or a fiscal period, as the case may be, means an individual who, at that time, is engaged in a training period in an establishment of an employer located in Québec and who, in general, is:

- either an apprentice enrolled in the Workplace Apprenticeship Program established under the *Act to promote workforce skills development and recognition* and administered by the Minister of Employment and Social Solidarity or, as the case may be, by the Kativik Regional Government;
- or an individual enrolled as a full-time student in a secondary, college or university-level education program or a prescribed program offered by a recognized educational institution.

A trainee, otherwise eligible for the tax credit under the existing rules, who is a handicapped person or an immigrant at any time of an eligible training period, may give rise to the improved tax credit.

Accordingly, the tax legislation will be amended to stipulate that, for the purposes of the tax credit for on-the-job training periods:

- a handicapped person, at any time of an eligible training period, is a person who, at such time, is entitled to the tax credit for severe and prolonged impairment in physical or mental functions;
- an immigrant, at any time of an eligible training period, is a person who, at such time, holds one of the following statuses, within the meaning of the *Canadian Immigration and Refugee Protection Act*:
 - protected person;
 - permanent resident;
 - temporary resident or holder of a temporary resident permit, who resided in Canada during the 18-month period preceding such time.

□ Rate of the tax credit

Currently, the rate of the tax credit is 30% if the eligible employer is a corporation and 15% in other cases.

The tax legislation will be amended to raise these rates to 40% and 20% respectively where the tax credit is claimed regarding an eligible trainee who is a handicapped person or an immigrant.

□ Eligible expenditure

Briefly, the refundable tax credit is calculated on the basis of the eligible expenditure regarding an eligible trainee, which consists of the wage and salary the trainee received in the course of an eligible training period, and those that a supervisor received for the hours he devoted to supervising the trainee.

However, this expenditure is limited, in particular, by the number of hours of supervision that may be included and by a weekly cap.

■ **Maximum number of hours of supervision**

Under existing rules, the maximum number of hours of supervision provided by an eligible supervisor that an employer may consider regarding an eligible trainee is:

- 20 hours per week, if the eligible trainee is an individual enrolled as a full-time student in a prescribed program; and
- 10 hours per week for any other eligible trainee.

The tax legislation will be amended to double the maximum number of hours of supervision an employer may include in calculating the eligible expenditure regarding an eligible trainee who is a handicapped person. Accordingly, the maximum number of hours of supervision provided by an eligible supervisor, currently set at 20 or 10, as the case may be, will be raised to 40 and 20 respectively.

■ **Weekly cap**

Under existing rules, the cap on the eligible expenditure that applies regarding an eligible trainee is:

- \$750 per week, if the eligible trainee is an individual enrolled as a full-time student in a prescribed program;
- \$600 per week for any other eligible trainee.

The tax legislation will be amended to increase the cap on the eligible expenditure applicable regarding an eligible trainee who is a handicapped person. Accordingly, the weekly cap on the eligible expenditure, currently set at \$750 or \$600, as the case may be, will be raised to \$1 050 and \$750 respectively.

□ **Application date**

These changes will apply regarding an eligible expenditure incurred after the day of the Budget Speech, in relation to an eligible training period beginning after that day.

2.6 New improvements to tax assistance for R&D

Québec's tax system has a number of measures to increase scientific research and experimental development (R&D) activities in Québec. The tax credits granted by the government in this field are the focal point of these incentive measures.

Major changes were made to these tax credits in the March 23, 2006 Budget Speech.¹¹⁴ The primary purpose of these changes is to allow greater participation by players in the institutional research community in R&D projects giving rise to tax assistance. In addition, these changes are designed to improve the refundable tax credits for R&D efficiency, in particular by simplifying Québec's tax legislation and further harmonizing it with the federal tax legislation.

Building on the changes made on March 23, 2006, new improvements will be made to Québec's system of tax assistance for R&D. The first improvement will increase the tax assistance granted to SMEs that carry out R&D relating to their business. Another improvement will seek to make public-private partnerships eligible for the tax credit that grants a larger amount of tax assistance to the partners of a partnership agreement. Lastly, the tax assistance currently allowed to encourage business-university synergy will be improved to allow the amount of this tax assistance to be maintained, despite the involvement of players from the institutional research community in carrying out R&D projects in the course of a university research contract or an eligible research contract.

□ Current situation

The four refundable tax credits for R&D currently in force are:

- the refundable tax credit concerning fees or contributions paid to an eligible research consortium;
- the refundable tax credit for R&D salary;
- the refundable tax credit for private partnership pre-competitive research;
- the refundable tax credit for university R&D.

A fifth refundable tax credit for R&D, i.e. the refundable tax credit for pre-competitive research, was eliminated in the March 23, 2006 Budget Speech, but a transition rule enables taxpayers who received this tax credit at that time to continue receiving it until the completion of their R&D project.

114 GOUVERNEMENT DU QUÉBEC, 2006-2007 Budget, *Additional Information on the Budgetary Measures*, section 1, subsection 2.5, p. 57.

The common goal of all these refundable tax credits is to encourage entrepreneurs to increase their R&D activities, the government's objective being to increase R&D spending to 3% of GDP by 2010. More specifically, these refundable tax credits are designed to make Québec the location of choice for entrepreneurs to carry out R&D relating to their business.

Moreover, these refundable tax credits have specific objectives. That of the refundable tax credit concerning fees or contributions paid to an eligible research consortium is somewhat different from the specific objectives of the other refundable tax credits for R&D. This tax credit bears on the funding of a private research centre rather than on a specific R&D project. Accordingly, this tax credit is designed to encourage entrepreneurs in the same activity sector to join together to set up a private research centre.

The base of this tax credit consists of the fees and contributions that members of an eligible research consortium pay to fund the research done by the consortium. The rate of this tax credit is 35%.

Since this tax credit is satisfactory as it stands, it will not be changed. It was previously changed in 2003,¹¹⁵ and was not affected by the reform of tax assistance for R&D introduced in the March 23, 2006 Budget Speech.¹¹⁶

❑ Improvement to the refundable tax credit for R&D salary

The refundable tax credit for R&D salary bears essentially on the salaries paid to employees of the entrepreneur who carries out R&D in Québec and on the salaries paid to employees of a sub-contractor not at arm's length with the entrepreneur and who carry out R&D in Québec on behalf of the entrepreneur. In the case of a research contract awarded to a sub-contractor at arm's length with the contractor, only half the amount of the research contract gives rise to the tax assistance granted by this tax credit.

The rate of this tax credit is 17.5%. However, the rate can rise to 37.5% for an SME. Briefly, an SME is defined as a Canadian-controlled corporation with assets of less than \$50 million for its preceding fiscal year, including the assets of corporations associated with it. However, the increased rate of 37.5% declines linearly where the assets of the corporation so calculated vary between \$50 million and \$75 million. Where the assets of the corporation exceed \$75 million, the rate is 17.5%.

This rate increase applies only to the first \$2 million of R&D spending eligible for this tax credit.

¹¹⁵ Information Bulletin 2003-7, December 12, 2003, p. 23.

¹¹⁶ *Supra*, note 114.

This spending limit has not changed since it was introduced. However, on December 4, 2006, the amount of tax assistance in relation to the refundable tax credit for R&D salary that is granted to SMEs was increased.¹¹⁷ At that time, the minimum and maximum asset thresholds of a corporation for the purposes of the increased rate were raised by \$25 million to stand at \$50 million and \$75 million respectively.

The amount of tax assistance of the refundable tax credit for R&D salary that is granted to SMEs will be increased once again.

More specifically, the tax legislation will be amended so that the spending limit described above that applies to the increased rate of 37.5% will be raised to \$3 million.

This change will apply regarding R&D spending eligible for this tax credit incurred by a Canadian-controlled corporation for a fiscal period ending after the day of the Budget Speech. For a fiscal period that includes this day, the new spending limit of \$3 million will be established according to the proportion of the number of days in such fiscal period that are after that day.

□ Improvement to the refundable tax credit for private partnership pre-competitive research¹¹⁸

The government acknowledges the importance of grouping businesses for carrying out R&D projects and, for almost twenty years, has granted an enhanced refundable tax credit in this regard. In the May 12, 1988 Budget Speech, an enhanced tax credit was introduced for pre-competitive research carried out under a partnership agreement.¹¹⁹

In the March 23, 2006 Budget Speech, this tax credit was replaced with the refundable tax credit for private partnership pre-competitive research.¹²⁰ The replacement of the earlier tax credit did not change the specific objective of this tax credit, which objective is still to encourage the grouping of businesses that deal at a distance so that they carry out, as a partnership, more ambitious R&D projects than would probably not have been carried out by each of the partners acting individually.

117 Information Bulletin 2006-5.

118 The changes to the refundable tax credit for private partnership pre-competitive research apply, with the necessary adaptations, to situations involving a partnership.

119 GOUVERNEMENT DU QUÉBEC, 1988-1989 Budget, *Additional Information on the Budgetary Measures*, subsection 2.2, p. 79.

120 *Supra*, note 114.

The change made in 2006 limited eligibility for the enhanced tax assistance to partnerships consisting solely of private partners. Accordingly, a partnership including a public partner, such as an eligible public research centre or a Crown corporation, is not eligible for the purposes of the refundable tax credit for private partnership pre-competitive research.

However, this type of public-private partnership is eligible for the tax assistance stipulated by the refundable tax credit for R&D salary and, because of the improvement made to this tax credit in 2006, the contribution of the public partner to the R&D project does not reduce the amount of R&D spending incurred by the private partners for the purposes of this tax credit.

However, it turns out that the contribution of public partners to a partnership that includes many businesses can be crucial for carrying out an R&D project. The government's economic development policy encourages the grouping of businesses and public research institutions to carry out R&D projects.

In this context, partnerships with public partners will henceforth be eligible for the refundable tax credit for private partnership pre-competitive research.

Furthermore, the contribution of public partners consisting of R&D expenditures for carrying out the R&D project will not reduce the amount of R&D expenditures eligible for this tax credit incurred by the private partners in relation to R&D work they carry out under the partnership agreement.

■ Changes to the eligibility criteria

The eligibility criteria for the refundable tax credit for private partnership pre-competitive research will be changed. More specifically, the tax legislation will be amended so that an excluded partner, as currently defined by the *Taxation Act*,¹²¹ will no longer disqualify a partnership agreement for the purposes of this tax credit.

This change will not alter the objective of this tax credit, which is to encourage at least two partners that deal at a distance and are not excluded partners to come together to carry out an R&D project under a partnership agreement.

In addition, the tax legislation will be amended to specify that a partnership agreement, to be eligible for this tax credit, must bring together at least two partners that are not excluded partners.

121 Section 1029.8.16.1.1, paragraph 1, definition of the expression "excluded partner".

These changes will apply regarding eligible R&D expenditures incurred after the day of the Budget Speech, regarding R&D work carried out after that day, under a partnership agreement for which an eligibility certificate, described below, is issued after that day by the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE).

In addition, to ensure that there is a genuine grouping of partners dealing at a distance, the tax legislation will be amended to specify that a partner that is not an excluded partner will be eligible for this tax credit only if, throughout a taxation year, it is not related to an excluded partner and is at arm's length with the other partners that are not excluded partners.

However, an exception will be allowed concerning related persons. Accordingly, a partner will nonetheless be eligible for this tax credit where, at any time of a taxation year, it is related to another partner that is not an excluded partner, and where, throughout such taxation year, it is not related to an excluded partner and is at arm's length with the other partners that are not excluded partners.

For example, two related corporations that enter into a partnership agreement with an eligible public research centre and with a third corporation with which they are at arm's length could receive this tax credit.

In this example, the partnership would be eligible for this tax credit because would be committed at least two partners that are not excluded partners. In addition, the two related corporations would be eligible despite their not being at arm's length because they are at arm's length with the third corporation. The third corporation would also be eligible for the tax credit because it is at arm's length with the two other corporations.

This change will apply regarding a taxation year of a taxpayer ending after the day of the Budget Speech.

Moreover, it was announced in the March 23, 2006 Budget Speech that the refundable tax credit for private partnership pre-competitive research would take up the application details of the refundable tax credit for pre-competitive research that it replaced.

Among the application details of the replaced tax credit that were taken up by the new tax credit, the eligibility of a partnership agreement was conditional on the absence of related partners in the partnership.

While the MDEIE has traditionally been mandated to administer this eligibility condition, it appears that Revenu Québec is better equipped to assess whether partners are related.

Accordingly, for the period before the changes described above come into force, the tax legislation will be amended so that a partnership agreement, for the purposes of the refundable tax credit for private partnership pre-competitive research, is eligible only if none of the partners is related to another partner of such agreement.

The application of this amendment will be declaratory.

■ Changes to eligible expenditures

The amount of a research contract awarded to an eligible university entity, an eligible public research centre or an eligible research consortium constitutes an eligible expenditure for the purposes of the refundable tax credit for private partnership pre-competitive research.

According to the current tax legislation, the expenditures eligible for this tax credit are not eligible for any other refundable tax credit for R&D.

In the context of the 2006 reform of tax assistance for R&D, it could be advantageous in certain circumstances that the amount of such a research contract give rise to the tax assistance stipulated by the refundable tax credit for R&D salary, because the contribution of such an entity, centre or consortium for carrying out the R&D work stipulated in the research contract, regardless of the form, does not reduce the amount of tax assistance of such tax credit.¹²²

Moreover, in relation to this type of research contract, the refundable tax credit for university R&D grants the same amount of tax assistance as that stipulated by the refundable tax credit for private partnership pre-competitive research.

In addition, the administrative formalities of the refundable tax credit for university R&D are designed to enable Revenu Québec to make sure that a research contract awarded to an eligible university entity, an eligible public research centre or an eligible research consortium actually constitutes a university research contract or an eligible research contract, as the case may be, in accordance with the objective of this tax credit that is to encourage business-university synergy.

In this context, the tax legislation will be amended so that an R&D expenditure incurred in the course of a research contract entered into with an eligible university entity, an eligible public research centre or an eligible research consortium is no longer eligible for the purposes of the refundable tax credit for private partnership pre-competitive research.

¹²² With the exception of a contribution that consists in purchasing all or part of the intellectual property stemming from the research contract. Such a contribution reduces the refundable tax credit for R&D salary to zero.

For greater clarity, an R&D expenditure regarding such a research contract will be eligible for the refundable tax credit for R&D salary or the refundable tax credit for university R&D, at the taxpayer's option.

This change will apply regarding an R&D expenditure incurred after the day of the Budget Speech in relation to a research contract entered into after that day.

Moreover, concerning a research contract entered into with an eligible university entity, an eligible public research centre or an eligible research consortium prior to the day following the day of the Budget Speech, the tax legislation will be amended so that an R&D expenditure incurred in the course of such a research contract is eligible for the refundable tax credit for private partnership pre-competitive research or the refundable tax credit for R&D salary, at the taxpayer's option.

This change will apply regarding an R&D expenditure incurred after March 23, 2006, regarding R&D work carried out by such an entity, centre or consortium in relation to a research contract entered into after March 23, 2006 but prior to the day following the day of the Budget Speech.

■ Change to the contribution rules

Contribution rules apply to refundable tax credits for R&D to ensure compliance with the fiscal policy on which these tax credits are based.¹²³ Briefly, where they apply, the contribution rules reduce to zero the amount of expenditures of an R&D project in regard to which they relate, subject to certain exceptions.

To give full effect to the improvement to the refundable tax credit for private partnership pre-competitive research, a new exception will be added to the contribution rules, so that the R&D expenditures assumed by an excluded partner for carrying out an R&D project under a partnership agreement do not reduce the amount of R&D expenditures of the other partners for the purpose of this tax credit.

More specifically, for the purposes of the refundable tax credit for private partnership pre-competitive research, the tax legislation will be amended so that an R&D expenditure incurred or supported by an excluded partner for carrying out an R&D project under a partnership agreement is deemed not to be a contribution for the other partners of this agreement.

This change will apply regarding an R&D expenditure incurred or supported by an excluded partner, after the day of the Budget Speech, regarding R&D work carried out after that day under a partnership agreement for which the MDEIE has issued an eligibility certificate, described below, after that day.

123 The contribution rules apply to all refundable tax credits for R&D except the refundable tax credit concerning fees or contributions paid to an eligible research consortium.

■ Changes to administrative formalities

■ Favourable advance ruling from Revenu Québec

Currently, Revenu Québec must issue an advance ruling before all or part of an expenditure eligible for the refundable tax credit for private partnership pre-competitive research is made. Such advance ruling must indicate that no excluded partner is part of the partnership agreement under which the R&D project is carried out.¹²⁴

This administrative formality becomes null and void since a partnership agreement will henceforth be eligible even if it includes one or more excluded partners.

In this context, the tax legislation will be amended to abolish the obligation to obtain a favourable advance ruling from Revenu Québec for the purposes of the refundable tax credit for private partnership pre-competitive research.

This amendment will apply as of the day following the day of the Budget Speech.

■ New information to provide with the tax return

Taxpayers claiming this tax credit will have to satisfy a new requirement to enable Revenu Québec to assess the eligibility criterion of a partnership based on the presence in the agreement of more than one partner that is not an excluded partner, and to assess the eligibility of the partners on the basis of the arm's length relationship.

More specifically, the tax legislation will be amended so that a taxpayer is required to enclose with its tax return for a taxation year the information prescribed by Revenu Québec, in particular the identification of all the partners of a partnership agreement, and the information enabling Revenu Québec to determine whether the taxpayer and the other partners of the agreement are not at arm's length.

Moreover, the tax legislation will be amended so that a taxpayer is required to enclose with his tax return for a taxation year the eligibility certificate described below, which the MDEIE will issue in relation to a pre-competitive research project carried out under a partnership agreement.

■ Eligibility certificate issued by the MDEIE

Currently, another administrative formality stipulates that the MDEIE must have issued a favourable opinion regarding an R&D project carried out under a partnership agreement.

¹²⁴ *Supra*, note 121.

This administrative formality will be replaced by an eligibility certificate to be issued by the MDEIE. With this certificate, the MDEIE will certify that the agreement reached by the various parties constitutes a partnership agreement and that the R&D project constitutes a pre-competitive research project.

In this regard, the MDEIE will not have to come to a decision on the ties that may exist between the partners, since this duty lies with Revenu Québec, and it will continue to apply the criteria it has previously formulated for the purposes of this tax credit. Among these criteria, the MDEIE checks that the rights and obligations stemming from the research project are distributed fairly and reasonably among the partners and that all the partners are treated on an equal footing and that they share the responsibilities and tasks of the research project.

The MDEIE will also indicate on each certificate it issues the following three provisos:

- Revenu Québec is mandated to assess the eligibility of the partnership agreement concerning the presence in this agreement of at least two partners that are not excluded partners;
- Revenu Québec is mandated to assess the eligibility of a partner concerning its arm's length relationship with the partners that are not excluded partners, subject to the exception concerning related persons;
- Revenu Québec is mandated to assess the eligibility of the R&D work carried out under the partnership agreement.

This eligibility certificate will be valid for a period of three years only, as is the case with the favourable advance ruling currently issued by Revenu Québec for the purposes of this tax credit.

Accordingly, three years after the effective date of the eligibility certificate issued by the MDEIE, a new certificate issued by the MDEIE must take effect, if the R&D work stipulated in the partnership agreement extends over a period longer than three years.

The statute that contains the non-tax parameters of certain fiscal measures¹²⁵ will include the new eligibility certificate to be issued by the MDEIE.

This amendment will apply as of the day following the day of the Budget Speech.

125 Information Bulletin 2007-10 of December 20, 2007, announced that the non-tax parameters pertaining to certain fiscal measures, such as the issuing of eligibility certificates by the MDEIE for the purposes of the refundable tax credit for private partnership pre-competitive research, will be consolidated into a framework law.

For greater clarity, applications for advance rulings concerning the refundable tax credit for private partnership pre-competitive research regarding which Revenu Québec has not yet reached a decision before the day following the day of the Budget Speech need not be covered by such a decision.

In this situation, since the MDEIE will already have had to give a favourable opinion, if necessary, it will have the responsibility of issuing an eligibility certificate as described above.

□ Improvement to the refundable tax credit for pre-competitive research

The refundable tax credit for pre-competitive research was eliminated in the March 23, 2006 Budget Speech. However, a taxpayer may still benefit from this tax credit regarding R&D expenditures it incurs under a partnership agreement for which the MDEIE has issued an eligibility certificate for the purposes of this tax credit.

In this context, as a corollary to the change that will be made to the contribution rules regarding the refundable tax credit for private partnership pre-competitive research, a new exception will be added to the contribution rules, so that the R&D expenditures assumed by an excluded partner for carrying out an R&D project under a partnership agreement covered by the transition rule for the purposes of the refundable tax credit for pre-competitive research do not reduce the amount of R&D expenditures of the other partners for the purpose of this tax credit.

More specifically, for the purposes of the refundable tax credit for pre-competitive research, the tax legislation will be amended so that an R&D expenditure incurred or supported by an excluded partner for carrying out an R&D project under a partnership agreement is deemed not to be a contribution for the other partners of this agreement.

For the purposes of this exception, an excluded partner is defined the same way as an excluded partner in regard to the refundable tax credit for private partnership pre-competitive research.¹²⁶

This change will apply regarding an R&D expenditure incurred or supported by an excluded partner, after the day of the Budget Speech, regarding R&D work carried out after that day under a partnership agreement covered by the transition rule for the purposes of the refundable tax credit for pre-competitive research.

¹²⁶ *Supra*, note 121.

❑ Improvement to the refundable tax credit for university R&D

A change similar to the one to be made to the contribution rules for the purposes of the refundable tax credit for private partnership pre-competitive research will be made to these rules for the purposes of the refundable tax credit for university R&D.

This change seeks to ensure consistency of the fiscal policy on which are based these two refundable tax credits that, while they have separate specific objectives, each offer an enhanced amount of tax assistance for R&D.

Accordingly, the active participation in the form of R&D expenditures by players in the institutional research community will henceforth be allowed for the purposes of these two refundable tax credits, with no reduction in the amount of tax assistance.

In this context, as a corollary to the change that will be made to the contribution rules regarding the refundable tax credit for private partnership pre-competitive research, a new exception will be added to the contribution rules so that the R&D expenditures assumed by an eligible university entity, an eligible public research centre or an eligible research consortium regarding the R&D work carried out under a research contract do not reduce the amount of R&D expenditure pertaining to the research contract awarded to such entity, centre or consortium.

More specifically, for the purposes of the refundable tax credit for university R&D, the tax legislation will be amended so that an R&D expenditure incurred or supported by an eligible university entity, an eligible public research centre or an eligible research consortium regarding R&D work that the entity, centre or consortium carries out under a university research contract or an eligible research contract, as the case may be, is deemed not to be a contribution for the taxpayer that awards such research contract to the entity, centre or consortium.

This change will apply regarding an R&D expenditure incurred or supported by an eligible university entity, an eligible public research centre or an eligible research consortium, after the day of the Budget Speech, regarding R&D work that the entity, centre or consortium carries out after that day.

❑ Elimination of an exception to the contribution rules

Currently, there is an exception to the contribution rules according to which the participation of an eligible university entity, an eligible public research centre or an eligible research consortium for carrying out an R&D project under a research contract is deemed not to be a contribution where, in particular, such participation is an R&D expenditure incurred or supported by such entity, centre or consortium in the course of the project and such expenditure does not exceed 40% of the total cost of the R&D work regarding such project.

This exception already no longer applies with regard to the refundable tax credit for R&D salary, given that this form of participation no longer constitutes a contribution in relation to this tax credit since the 2006 reform of tax assistance for R&D.

Moreover, for the purposes of the refundable tax credit for private partnership pre-competitive research, this exception will no longer be meaningful in relation to a research contract awarded to such an entity, centre or consortium after the day of the Budget Speech, since the R&D expenditure incurred regarding such a research contract will no longer be eligible for the purposes of this tax credit.

In addition, the change to be made to the contribution rules for the purposes of the refundable tax credit for university R&D will be more advantageous than this exception that, in particular, limits the R&D expenditure incurred or supported by such an entity, centre or consortium to 40% of the total cost of the R&D work regarding the project.

In this context, the tax legislation will be amended to eliminate this exception to the contribution rules.

This change will apply to an R&D expenditure incurred or supported by an eligible university entity, an eligible public research centre or an eligible research consortium, after the day of the Budget Speech, regarding R&D work that the entity, centre or consortium carries out after that day.

Moreover, Appendix 2 to this section provides an illustration of the fiscal policy on which the contribution rules, as changed by this Budget Speech, are based.

2.7 Measures concerning culture

For many years, the government has made use of tax credits to support Québec's various cultural industries. These tax credits are the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings, and the tax credit for book publishing.

Changes will be made to these tax credits to enhance the achievement of the objectives of tax assistance for culture.

First of all, circus shows, aquatic shows and ice shows may henceforth give rise to the tax credit for the production of shows. In addition, the calculation details of this tax credit will be changed regarding larger corporations.

Moreover, special rules will be implemented to better define the application of the tax credit for Québec film and television production in the case of inter-provincial co-productions.

Lastly, a clarification will be made so that the rule limiting to 50% the deductibility of entertainment expenses is not applied in the calculation, in particular, of eligible labour expenditures and production expenses for the purposes of the tax credits in the cultural field. As a corollary, the deduction for entertainment expenses will be adjusted so that the tax treatment applicable to an allowance paid by a producer to an artist is the same, regardless of the latter's status (employee or self-employed worker).

2.7.1 Eligibility of circus shows, aquatic shows and ice shows

The refundable tax credit for the production of shows applies to the labour expenditure attributable to services supplied for the production of eligible shows. The tax credit is equal to 29.1667% of the amount of eligible labour expenditures, which are, however, limited to 45% of the production expenses of the show. Furthermore, the tax credit, for an eligible show, may in no event exceed \$750 000.

To be eligible, a show must either be a musical, dramatic, comedy, mime or magic show. Circus shows, aquatic shows and ice shows are specifically excluded. Yet these shows often encompass the various artistic disciplines that make up shows that are eligible.

Accordingly, circus shows, aquatic shows and ice shows will henceforth constitute shows eligible for the refundable tax credit for the production of shows.

This change will apply regarding a show 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 the Société de développement des entreprises culturelles (SODEC) after the day of the Budget Speech, in relation to an eligibility period of the show beginning after that day.

2.7.2 Change to the rate and the cap of the refundable tax credit for the production of shows

The purpose of the tax credit for the production of shows is essentially to encourage consolidation in the Québec show business industry, enable the production of shows with larger budgets and support job creation.

However, for the tax assistance to be granted to shows that really need support, the rate and the cap of the refundable tax credit for the production of shows will henceforth decline linearly with the total assets, calculated on a consolidated basis, of the corporation producing the show, according to the usual rules.¹²⁷

Briefly, total assets must be determined on a world basis, including the assets of associated corporations, including those of associated corporations not subject to the Taxation Act, and the assets that would be attributable to a partnership, a trust or to an individual, deemed associated with a corporation according to the usual rules.

More specifically, the rate of the refundable tax credit for the production of shows will be 29.1667% and the cap will be \$750 000 for a taxation year, where such total assets are equal to or less than \$50 million for the preceding taxation year, which rates and cap will decline linearly to zero where total assets reach \$75 million.

The rate of the refundable tax credit for the production of shows will then be calculated using the following formula:

$$\text{Rate of the tax credit} = 29.1667\% - \frac{(\text{TACB} - \$50 \text{ million}) \times 58.334\%}{\$50 \text{ million}} .$$

The cap of the refundable tax credit for the production of shows will be calculated using the following formula:

$$\text{Cap of the tax credit} = \$750\,000 - \frac{(\text{TACB} - \$50 \text{ million}) \times \$1.5 \text{ million}}{\$50 \text{ million}} .$$

In these formulas, the acronym TACB stands for total assets calculated on a consolidated basis.

For example, the rate of the refundable tax credit for the production of shows applicable to an eligible corporation whose total assets are \$60 million will be 17.5%¹²⁸ and the cap on the tax credit will be \$450 000.¹²⁹

This change will apply to a show regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such show, is filed with SODEC after May 31, 2008.

¹²⁷ These rules are the ones relating to the calculation of paid-up capital, on a consolidated basis, described in subsection 2.1.1, with the necessary adaptations.

¹²⁸ I.e. $29.1667\% - [(\$60 \text{ million} - \$50 \text{ million}) \times 58.334\% / \$50 \text{ million}] = 17.5\%$.

¹²⁹ I.e. $\$750\,000 - [(\$60 \text{ million} - \$50 \text{ million}) \times \$1.5 \text{ million} / \$50 \text{ million}] = \$450\,000$.

It will also apply regarding a show, even though an application for an advance ruling has been filed with SODEC before June 1, 2008, if SODEC considers that the work on the show was not sufficiently advanced the day of the Budget Speech.

2.7.3 Inter-provincial co-productions

Generally, producing a film or television production is a fairly expensive undertaking. For that reason, Québec producers sometimes work with partners in other provinces to find the funding needed to shoot a production. In addition, such a co-production, if it satisfies the eligibility conditions, may give rise to the refundable tax credit for Québec film and television production.

This approach is to be encouraged, provided the inter-provincial co-production is based on genuine financial, artistic and technical cooperation among the partners.

Accordingly, rules governing the relations of partners in an inter-provincial co-production and satisfying Canadian and international standards in this field will be introduced. These rules, which will be incorporated into a framework law consolidating all the non-tax parameters that will be enacted during the year,¹³⁰ will be administered by SODEC.

More specifically, for an inter-provincial co-production to be eligible for the refundable tax credit for Québec film and television production, a corporation that is partner corporation in an inter-provincial co-production must satisfy the following conditions regarding the co-production:

- it must carry out the co-production with one or more co-producer corporations of one or more provinces or territories of Canada;
- it must hold a financial interest in the co-production equal to or greater than 20%;
- it must demonstrate its effective independence relative to the other corporations committed in the co-production;
- it must own the rights needed to capitalize on the co-production in Québec in the same proportions as its financial interest and its share of the revenues in the co-production;
- it must have a creative and technical participation in the co-production equal to or greater than the proportion of its financial interest in the co-production.

¹³⁰ Information Bulletin 2007-10, December 20, 2007, p. 16.

These rules will apply to an inter-provincial co-production for which an application for an advance ruling or, in the absence of such an application, a final certification application is submitted to SODEC after the day of the Budget Speech. However, they will not apply to a co-production regarding which SODEC considers the work to be sufficiently advanced the day of the Budget Speech.

2.7.4 Entertainment expenses

The *Act respecting the professional status and conditions of engagement of performing, recording and film artists*¹³¹ stipulates that an artist who generally binds himself to one or more producers through contracts that bear on specified performances is deemed to practise an art on his own account.

This statute also stipulates that producers and artists can enter into group or individual agreements. Such agreements govern the labour relations between them and contain clauses stipulating, for instance, that a producer will pay an allowance for living expenses to an artist where the artist's performance is given many kilometres away from the territorial zone in which the producer mainly carries out its activities.

As for the tax status of an artist, he may have the status of an employee under one contract and the status of a self-employed worker under another commitment. However, in general, an artist who, during a year, entered into many commitments with one or more producers can be considered, regarding such commitments, a self-employed worker.

□ Clarification concerning tax credits in the cultural field

Briefly, the refundable tax credits in the cultural field apply to the eligible labour expenditure attributable to the production of a work of art, which expenditure is itself limited to a percentage of the production expenses of the work.

Moreover, the labour expenditure and production expenses include in particular the entertainment expenses incurred by the producer and otherwise eligible as a deduction for income tax purposes.

As a general rule, the deduction allowed a taxpayer who incurs expenses for food, drink and entertainment (entertainment expenses) is limited to 50% of the amount spent in this regard.

131 This statute applies to artists and to the producers that retain their professional services in the following fields of artistic production: stage including theatre, singing theatre, music, dance and variety, multimedia, film, records and other forms of sound recording, dubbing and recording of advertisements. In this subsection, an artist and a producer are understood within the meaning of this statute. In addition, an artist includes an association of artists and a producer includes an association of producers.

The 50% limit on the deductibility of entertainment expenses was implemented in the specific context of the determination of the portion of an expense incurred to earn income that can be deducted from such income.

Establishing the labour expenditure, production expenses and other amounts to which the tax credits in the cultural field apply should not depend on a tax rule applicable in a completely different context.

Indeed, in the case of the refundable tax credits in the cultural field, the real amount of entertainment expenses incurred by a producer must be considered because, to be efficient, the tax assistance must be granted on the basis of the true labour expenditure.

In addition, since the limit on these tax credits is based in particular on production expenses, establishing the latter must also reflect reality.

Accordingly, the tax legislation will be amended so that the 50% limit relating to the deduction of entertainment expenses does not apply in the context of tax credits in the cultural field. More specifically, this 50% limit will not apply in calculating the eligible labour expenditure and production expenses for the purposes of the various tax credits in the cultural field. This expenditure and these fees include the eligible expenditure for film dubbing and the preparatory expenses or printing expenses relating to the tax credits for book publishing.

The application of this amendment will be declaratory.

❑ Standardization of the treatment relating to the deduction for entertainment expenses

As mentioned above, in general, the deduction allowed to a taxpayer who incurs expenses for food and drink is limited to 50% of the amount spent in this regard.

However, where an expenditure for food and drink consists of an allowance for meal expenses that a producer pays to an artist who is an employee, the 50% limit does not apply if the employee must report the value of the benefit represented by the allowance paid by the employer as taxable income. Accordingly, the producer may deduct the full amount of the allowance for meal expenses.

The situation is the same for a producer in certain other particular situations, for instance, where the artist who receives the allowance for meals must in particular be away from his principal place of residence for at least 36 hours. In such a case, the artist will not have to include the amount of the allowance in calculating his income.

Moreover, there are situations where the artist who is an employee need not include the amount of the allowance in calculating his income but, however, the 50% limit applies to the producer.

The situation is quite different where the artist is self-employed. In most cases, the producer is affected by the 50% limit, which may also be taken into consideration in calculating the artist's income.

Accordingly, the situation of the producer will often be different depending on whether the artist with whom it has entered into an agreement is its employee or a self-employed worker. Yet, in both cases, the allowances for meal expenses are paid by the producer under a group or individual agreement that contains strict rules concerning meal expenses.

Accordingly, to standardize the tax treatment concerning an amount paid on account of an allowance for meal expenses by a producer to an artist, the tax legislation will be amended to provide for a particular exception in the cultural field whereby an artist who is a self-employed worker will be considered an employee for the purposes of the deduction for entertainment expenses, but only regarding the producer who pays the allowance.

However, this exception will apply only where the allowance is paid under a group or individual agreement binding an artist and a producer, which agreement must be entered into in compliance with the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*.

Accordingly, although an artist to whom an allowance for meal expenses is paid is a self-employed worker, whether or not the 50% limit applies in calculating the income of the producer is determined as though the artist were an employee.

Consequently, this limit will not apply in calculating the income of a producer where the amount thus paid would have been fully deductible by the latter had the artist been an employee, and it will apply in calculating the income of the producer where only half the amount thus paid would have been deductible by it had the artist been an employee.

For greater clarity, the rules concerning the deductibility of entertainment expenses will remain unchanged regarding an artist who receives an allowance from a producer, which will continue to be determined according to his true tax status.

The application of this amendment will be declaratory.

2.8 Inter-provincial tax avoidance

Québec's tax system comes under the context of Canadian fiscal federalism. One of the features of fiscal federalism is the co-existence of more than one tax jurisdiction regarding the same tax base. Because of such co-existence, fiscal federalism undoubtedly leads to situations of double or multiple taxation of taxpayers, i.e. situations where more than one tax jurisdiction is entitled to tax the same income in the hands of the same taxpayer.

This situation occurs, for instance, regarding corporate tax. For example, a Québec corporation with an establishment in Québec is subject both to Québec and federal income tax. In addition, if the corporation were to open an establishment in Ontario, it would also be subject to Ontario income tax.

To avoid the multiple taxation that stems from fiscal federalism, the various jurisdictions have agreed a mechanism for sharing the tax base. In Canadian fiscal federalism, this sharing mechanism consists of a mathematical formula known as the income allocation formula (allocation formula).

This allocation formula is built around two parameters, namely income and salaries attributable to an establishment of a given corporation for a specified period, i.e. for a period covering a fiscal period. In view of the objective of fiscal policy, i.e. the sharing of a tax base among a number of jurisdictions on the basis of the economic activity carried out in each jurisdiction and measured according to the relative size of the income and salaries attributable to each one, the use of the same parameters and the same reference period by all jurisdictions concerned is functional prerequisite of Canadian fiscal federalism.

❑ Desynchronization of fiscal periods for tax purposes

According to the tax legislation, a corporation's taxation year corresponds to its fiscal period. Currently, a corporation is free to choose the date on which its first fiscal period will end, provided the fiscal period does not exceed 53 weeks. In the Québec context where two tax systems cohabit, corporations usually opt for the same fiscal period end date for the purposes of the Québec *Taxation Act* and the Canadian *Income Tax Act*, because of the many benefits that entails at the administrative and accounting levels.

However, it appears that some corporations take advantage of this situation as part of a particular tax planning scheme whose sole purpose is to avoid Québec tax or another provincial tax, in particular on the capital gain resulting from the disposition of property.

Essentially, the stratagem is based on the ability to make a separate Québec election of fiscal period end, the objective being that desynchronizing the fiscal period end dates creates a dissimilarity of tax data between jurisdictions for the purposes of the income allocation formula. Since the fiscal periods do not cover the same period, an appropriate combination of the nature, source and amount of income earned completes the abusive scheme.

■ **Elimination of the election for determining a fiscal period end date different from that set for the purposes of the federal legislation**

On December 20, 2006, the ministère des Finances announced the elimination of many separate Québec elections,¹³² noting that the objective of flexibility at the heart of this privilege had to be reviewed because it had been twisted for the purposes of tax planning schemes seeking to avoid provincial income tax.

In this perspective, it was then mentioned that this change was applicable to most situations for which an election was possible under the federal and Québec tax laws. A list of the relevant legislative provisions was drawn up¹³³ and it was specified that the fact that an election was not indicated in the list did not mean that such election could be made to avoid payment of provincial taxes.

It is far from certain that this warning was enough to discourage the formulation of schemes designed to avoid a provincial tax based on a separate Québec election, in this case, the election of a different fiscal period end date from the one elected under the federal legislation.

Accordingly, in the context where the making of a separate Québec election for the purpose of formulating schemes designed to avoid a provincial tax is contrary to the fiscal policy stated on December 20, 2006, the tax legislation will be amended to provide that the fiscal period end date of a corporation must be synchronized with the one chosen for the purposes of the *Income Tax Act*.

■ **Application date**

Since this amendment follows in the wake of the elimination of separate Québec elections already announced on December 20, 2006, it will apply as of that date.

For greater clarity, the synchronization of the fiscal period end date with that elected under the federal legislation will be forward-looking regarding any fiscal period in progress on December 20, 2006 or after that date. Such synchronization must be made as of the first fiscal period covered by the amendment, but the fiscal period resulting from such operation may in no event exceed 53 weeks.

132 Information Bulletin 2006-6, p. 10.

133 Information Bulletin 2006-6, p. 11.

For example, a corporation that, on December 20, 2006, would have a fiscal period end on June 30 under the Québec legislation and a fiscal period end of January 31 under the federal legislation, must synchronize its fiscal period end with that elected under the federal legislation to have one fiscal period end on January 31, 2007. In such a case, the fiscal period that began July 1, 2006 can end January 31, 2007, because the resulting fiscal period does not exceed 53 weeks. The fiscal period ended June 30, 2007 for which the corporation has normally already filed its tax return will then be moot since its true fiscal period will cover the period from July 1, 2006 to January 31, 2007, not from July 1, 2006 to June 30, 2007. The remaining portion of this fiscal period (from February 1, 2007 to June 30, 2007) will be included in the next fiscal period running from February 1, 2007 to January 31, 2008.

In the case where the fiscal period end chosen under the federal legislation is more than 53 weeks from the beginning of the Québec fiscal period to be synchronized, the Québec fiscal period will end as stipulated, but the synchronization will be carried out with the subsequent federal fiscal period by inserting a short Québec fiscal period between the two.

For example, in the case of a corporation with a fiscal period end of June 30, 2007 under the Québec legislation and a fiscal period of July 31, 2007 under the federal legislation, since synchronization at July 31, 2007 would result in a Québec fiscal period longer than 53 weeks (from July 1, 2006 to July 31, 2007), its Québec fiscal period including December 20, 2006 will end as stipulated on June 30, 2007. However, its next fiscal period beginning July 1, 2007 will end on July 31, 2007, not on June 30, 2008.

■ **Application of the general anti-avoidance rule**

The purpose of this amendment is not to restrict the application of the general anti-avoidance rule regarding a non-synchronized fiscal period not covered by this amendment.

■ **Calculation of penalties and interest**

In general, a corporation must file a tax return no later than six months after the end of its taxation year. Since its taxation year corresponds to its fiscal period, the deadline for filing the tax return and the due date of any balance is calculated from its fiscal period end.

So that corporations do not have to pay the penalties and interest stemming from a late filing of their new tax return resulting from the obligation to synchronize their Québec fiscal period with their federal fiscal period, no penalty for late filing or interest on the balance or instalments will be imposed before the expiry of a period of six months starting the day the bill giving effect to this amendment is assented to.

□ Aggressive tax planning schemes

The desynchronization of a corporation's fiscal periods is an example of tax planning that can be qualified as "aggressive". The essential purpose of such a desynchronization arrangement is to enable a taxpayer to avoid his tax obligations. By attacking the integrity of the tax system this way, aggressive tax planning schemes erode Québec's tax base and discourage the fiscal civic-mindedness of other taxpayers.

Consequently, aggressive tax planning schemes must be fought vigorously. That is why, over the coming months, Québec's tax authorities will intensify their fight against this type of tax planning in accordance with the Québec strategy for combating aggressive tax planning schemes. The main components of this strategy are given in Appendix 3.

3. OTHER MEASURES

3.1 Improvement to measures to combat tobacco smuggling

In recent months, in the course of their continuing efforts to curb tax evasion tied to tobacco smuggling, the tax authorities have concluded that changes should be made to the tobacco tax system to improve certain control measures.

These changes are designed essentially to enable better monitoring of the manufacturing and distribution chain of tobacco products in Québec, including supplies of raw materials.

3.1.1 Prohibition on carrying out manufacturer services

According to the tobacco tax system, any person who, in Québec, manufactures, produces, mixes, prepares or packages tobacco intended for sale must hold a manufacturer's permit. Moreover, no person may sell or deliver tobacco in Québec to a wholesaler who does not hold the appropriate permit stipulated by this system.

However, there is nothing preventing the holder of a manufacturer's permit from carrying out, for another person, operations for which such other person should hold such a permit were he to carry them out himself.

On a number of occasions, some holders of manufacturer's permits have advised the tax authorities that such service agreements had been proposed to them by persons who apparently did not hold the permits required by the tobacco tax system regarding their activities.

In this context, a change will be made to this tax system to prevent a holder of a manufacturer's permit from carrying out, for a person who does not hold the required permit, a manufacturing, production, mixing, preparation or packaging service for tobacco intended for sale.

A person who contravenes this prohibition will be committing an infraction punishable by the same fines and sentences as the infraction that consists in contravening the prohibition on selling or delivering tobacco in Québec to a wholesaler who does not hold the appropriate permit stipulated by the tobacco tax system.

These amendments will come into force on the date the bill giving effect to them is assented to.

3.1.2 Broadening of the definition of the expression raw tobacco

In 2005, control measures were introduced to the tobacco tax system regarding raw tobacco, i.e. tobacco leaves that have not been processed beyond the drying stage and fragments of such tobacco leaves. These measures were designed to provide government authorities with means to adequately monitor the marketing of the raw material used in making tobacco products intended for consumption, in order to reduce supplies for networks selling such products illegally.

Since the introduction of these measures, forms of tobacco that do not correspond to this definition of raw tobacco, although used in the making of tobacco products intended for consumption, have appeared on the market.

Accordingly, the definition of the expression raw tobacco stipulated in the tobacco tax system will be changed to also cover any form of tobacco used in the making of such products.

This amendment will come into force on the date the bill giving effect to it is assented to.

3.1.3 Prohibition on purchasing or taking delivery of raw tobacco

The tobacco tax system prohibits the sale or delivery of raw tobacco in Québec to a person who does not hold one of the permits stipulated therein.

However, this system does not stipulate the opposite rule, i.e. the prohibition on purchasing or taking delivery of raw tobacco from a person who does not hold the required permits.

In view, in particular, of the arrival on the Québec market of raw tobacco produced in Ontario, it is advisable to add this prohibition to the tobacco tax system.

Consequently, a change will be made to the system so that it also prohibits purchasing or taking delivery of raw tobacco in Québec from a person who does not hold the permits required by this system.

A person who contravenes this prohibition will be committing an infraction punishable by the same fines and sentences as the infraction that consists in contravening the prohibition on selling or delivering raw tobacco in Québec to a person who does not hold one of the permits stipulated by the tobacco tax system.

These amendments will come into force on the date the bill giving effect to them is assented to.

3.1.4 Registers and reports by an importer

Under the tobacco tax system, the storer and the carrier must keep a register setting out the handling of the stored raw tobacco or packages of tobacco and deliveries made of raw tobacco or of packages of tobacco, as the case may be. In addition, they may be required to report on the quantities of raw tobacco or of packages of tobacco stored, transported or delivered during a given period.

In order, in particular, to take into account the new supply channels for raw materials brought to the attention of the tax authorities, the tobacco tax system will be changed so that these requirements also apply to an importer of tobacco or of raw tobacco, with the necessary adaptations.

This amendment will come into force on the date the bill giving effect to it is assented to.

3.2 Measures to improve the administration of the fiscal laws

The *Act respecting the ministère du Revenu* (AMR) stipulates an integrated set of rules covering a large part of the administrative aspects relating to the application of the fiscal laws. To improve some of these administrative rules, amendments will be made to the AMR.

3.2.1 Tighter control regarding persons that have breached their tax obligations

Under the AMR, the Minister of Revenue can, in certain situations, require that a person provide security as a condition for issuing or maintaining in force a registration certificate or a permit issued under a fiscal law. In addition, in certain situations, the Minister may suspend, revoke or refuse to issue such a certificate or permit or refuse to renew the latter.

To improve control regarding persons who have contravened their fiscal obligations, the AMR will be amended so that the Minister can also exercise these powers against a person in the following situations:

- during the preceding five years, one of the directors or senior officers of the person has been convicted of an offence against a fiscal law;

- during the preceding five years, the person was assessed a penalty for behaviour of a fraudulent nature, or one of its directors or senior officers was assessed such a penalty;¹³⁴
- the person failed to pay an amount it was required to pay as a director of a corporation under section 24.0.1 of the AMR, or one of its directors or senior officers failed to pay such an amount.

Moreover, the Minister's power to suspend, revoke or refuse to renew a permit issued under a fiscal law to a person in the case where it ceased its activities or the activity for which a permit was issued to it will be extended to the case where it has not started its activities or the activity for which the permit was issued to it.

These amendments will come into force on the date the bill giving effect to them is assented to.

3.2.2 Use of a person's computer hardware in the course of an audit, inspection or investigation

Under the terms of the AMR, the auditors and inspectors of Revenu Québec have the power to audit or examine the supporting documents and registers of a person as well as any other document or thing that may relate, in particular, to the information contained or that should be contained in the registers or on the supporting documents. They also have the power to copy, print out or photograph them.

However, it is not explicitly stipulated that the auditors and inspectors can use the computer hardware of the person (for instance, the computer, terminal, printer or burner) in the course of exercising such powers.

Accordingly, the AMR will be amended to clearly give them the power to use the computer hardware of a person in such circumstances. Amendments will also be made to the AMR to give a similar power to investigators in the course of a search.

These amendments will come into force on the date the bill giving effect to them is assented to.

134 More specifically, the penalties stipulated in sections 59.3, 59.3.1, 59.4 and 59.5.3 of the AMR and in sections 1049 and 1049.0.5 of the *Taxation Act*.

3.2.3 Seizure of a thing used for the commission of an offence against a fiscal law

The *Tobacco Tax Act* (TTA) allows an investigator to seize, during a search made under the Act, any thing that may afford evidence of an offence against the Act, or any thing that is or was used to commit such an offence. The *Fuel Tax Act* (FTA) stipulates a similar power of seizure where a search is made under that Act.

However, in the case of a search relating to another fiscal law made under the AMR, the power of seizure an investigator has is more restricted because it is limited solely to the things that may afford evidence of an offence against this other fiscal law.

To standardize the powers of seizure relating to all the fiscal laws, the AMR will be amended to extend the power of seizure currently stipulated in it to any thing that is or was used to commit an offence against a fiscal law. In addition, amendments will be made to the AMR to stipulate incidental powers concerning the custody, sale, retention, return and destruction of the thing thus seized similar to those stipulated in this regard in the TTA and the FTA.

These amendments will come into force on the date the bill giving effect to them is assented to.

4. MEASURES RELATING TO THE FEBRUARY 26, 2008 FEDERAL BUDGET

On February 26, 2008, the Minister of Finance of Canada presented the federal government's budget for 2008. This budget includes various fiscal measures that affect the tax system.

Along with the budget, the federal Minister of Finance tabled, in the House of Commons, supplementary information, as well as notices of ways and means motions to amend the *Income Tax Act* and the *Excise Tax Act*.

Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, these measures will only be adopted following the assent given to any legislation or adoption of any 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 generally apply on the same dates as for the purposes of the federal tax system.

□ Measures relating to the *Income Tax Act*

■ Measures retained

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

1. the implementation of tax-free savings accounts (BR 1),¹³⁵ subject to the clarifications made below;
2. the time limits applicable to registered education savings plans (BR 2);
3. the educational assistance payments from registered education savings plans (BR 3);
4. the adjustments to the gross-up rates applicable to eligible dividends (BR 5 a));
5. the addition and clarifications to the list of eligible expenses for the purposes of the non-refundable medical expense tax credit (BR 6 and BR 7);¹³⁶

135 The references between parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to amend the *Income Tax Act* tabled on February 26, 2008.

136 Including the regulatory amendments to the list of eligible expenses for the purposes of the non-refundable medical expense tax credit, discussed on page 281 of *The Budget Plan 2008* of the Department of Finance Canada.

6. the end of a registered disability savings plan (BR 8);
7. gifts of publicly-traded securities to registered charities (BR 9);
8. the deduction for inhabitants of northern regions (BR 10);
9. the disposition of taxable Canadian property (BR 19);
10. the donation of medicines to developing countries (BR 20);
11. the amendments pertaining to capital cost allowance applicable to certain types of assets.¹³⁷

In addition, although they require no legislative or regulatory amendments, the measures relating to excess corporate holdings by private foundations (BR 4) will also be retained for the purposes of Québec's tax system.

■ Measures not retained

Some measures have not been retained because they do not correspond to features of Québec's tax system or because Québec's tax system has no corresponding provisions. Such is the case with the measures relating to the deferment of the mineral exploration tax credit (BR 11), the scientific research and experimental development (BR 12 to BR 16), subject to the clarifications described below, the requirement to make large payments directly to a financial institution (BR 17) and the business number (BN) initiative.¹³⁸

Other measures have not been retained because Québec's tax system is satisfactory in their regard. This applies to the measures on:

- the adjustments to the rate of the tax credit applicable to eligible dividends (BR 5 b));
- late remittances of source deductions (BR 18);
- the provincial component of specified investment flow-through trusts (BR 21), subject to the clarifications described below.

137 DEPARTMENT OF FINANCE CANADA, *The Budget Plan 2008*, p. 295-302. For greater clarity, the assets covered by the amendment relating to manufacturing and processing machinery and equipment may constitute eligible assets for the purposes of the new investment tax credit.

138 Id. p. 304 and 305.

■ Clarifications concerning certain measures

■ Measures relating to tax-free savings accounts

For the purposes of Québec's tax system, a tax-free savings account means an account approved, for the purposes of the *Income Tax Act*, by the Minister of Revenue of Canada as a tax-free savings account.

In this context, the measures relating to the registration of tax-free savings accounts, their holders, contribution limits, eligible investments, transfers, information returns and the tax of 1% per month on excess contributions will not be incorporated into Québec's tax legislation.

However, for greater clarity, the measures relating to the tax treatment of income from a tax-free savings account, the non-deductibility of interest on amounts borrowed to invest in such an account and the non-application of the attribution rules will be incorporated into Québec's tax legislation and regulations, with adaptations on the basis of their general principles.

■ Measure concerning scientific research and experimental development

An amendment comparable to one of the amendments proposed by budget resolutions 12 to 16 will be made to Québec's tax legislation. Briefly, this involves the limit on R&D spending that gives rise to the grossed-up rate of 37.5%, which will be raised to \$3 million, as is more fully described in subsection 2.6.

■ Measure concerning the tax treatment of specified investment flow-through trusts (SIFT)

The ministère des Finances du Québec has already announced that Québec's tax legislation would be harmonized with the federal tax legislation concerning the introduction of a tax regime relating to SIFTs, while specifying that it will be a separate tax regime.¹³⁹ Accordingly, a SIFT with an establishment in Québec at any time of a taxation year is subject to this new Québec tax for the year.

139 Information Bulletin 2006-6, December 20, 2006, p. 32.

In addition, on June 26, 2007, the ministère des Finances du Québec announced that the Québec portion of the amount of taxable distributions of a SIFT with establishments both in Québec and outside Québec would be determined in accordance with the general formula for allocating corporate taxable income and that the tax rate applicable to SIFTs would be the one already stipulated in the case of corporations.¹⁴⁰

Consequently, since Québec's tax legislation is already satisfactory in this regard, harmonization with the concept of "provincial component" (BR 21) is not necessary. Accordingly, conceptually, like the federal legislation, the general business allocation formula applicable to corporations also applies to the SIFT tax regime. However, unlike the federal legislation in this regard that will apply only as of taxation year 2009, Québec's rules will apply as of taxation year 2007.

❑ 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 specific Québec features, the federal measures concerning health (BR 1 to BR 15),¹⁴¹ long-term residential care facilities (BR 16 to BR 22) and property leases for wind and solar power equipment (BR 23).

❑ Measures previously announced by the federal Department of Finance

In presenting his budget for 2008, the Minister of Finance of Canada also confirmed his intention to introduce, in their amended version to reflect consultations and discussions, various tax measures that had been previously announced¹⁴² and regarding which the ministère des Finances du Québec has already announced that Québec's tax legislation would be amended to incorporate them.

However, the ministère des Finances du Québec has not yet announced its intention regarding the December 20, 2007 announcement by the Minister of Finance of Canada who issued a draft technical amendment at that time to specify the income tax rules applicable to SIFTs.¹⁴³

140 Information Bulletin 2007-5, p. 22. This announcement also refers to the normal growth rules announced on December 15, 2006 by the Minister of Finance of Canada (News Release 2006-082).

141 The references between parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to amend the *Excise Tax Act* relating to the goods and services tax and the harmonized sales tax (GST/HST) tabled on February 26, 2008.

142 DEPARTMENT OF FINANCE CANADA, *The Budget Plan 2008*, p. 321.

143 News Release 2007-106 of the Department of Finance Canada.

However, the ministère des Finances du Québec had already announced that Québec's tax legislation would be harmonized with the federal tax legislation concerning the introduction of a tax regime relating to SIFTs, while specifying that it would be a separate tax regime.¹⁴⁴ Accordingly, a SIFT with an establishment in Québec at any time of a taxation year is subject to this new Québec tax for the year.

Consequently, Québec's tax legislation and regulations will be amended to incorporate the measures announced on December 20, 2007. However, these measures will only be adopted following the assent given to any legislation or adoption of any 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 generally apply on the same dates as for the purposes of the federal tax system.

144 *Supra*, note 139.

Appendix 1 – Schedule to the lease of an elderly person

This appendix reproduces the “Schedule to the Lease – Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to Elderly or Handicapped Persons”, whose content appears in Schedule 6 of the *Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee*. This form must accompany the lease form for a dwelling where a landlord offers, because of the lessee’s age, services in addition to those indicated in the mandatory lease form.

Certain passages of this form have been highlighted and help balloons have been added to make it easier to find the items referred to in the tables for determining eligible expenses included in a rent paid to live in a residence for elderly persons.

The tables for determining expenses – presented in subsection 1.1.4 – are introduced to enable elderly persons to easily determine the amount of eligible expenses included in the rent they pay to live in a residence for elderly persons and that can give rise to the refundable tax credit for home support of an elderly person.

MANDATORY FORM OF THE RÉGIE DU LOGEMENT
SCHEDULE TO THE LEASE
SERVICES OFFERED TO THE LESSEE
 OWING TO HIS PERSONAL CONDITION, INCLUDING SERVICES OFFERED TO
ELDERLY OR HANDICAPPED PERSONS

This mandatory Schedule completes the written lease and must be used for entering into a lease in cases where the landlord* provides the lessee with services in addition to those indicated in the mandatory lease form, owing to the lessee's personal condition, including his age or a handicap.

The provisions respecting the rights and obligations of lessees and landlords found in articles 1851 to 2000 of the *Civil Code of Québec*, which are summarized in the particulars of the lease, apply not only to a dwelling or a rented room, but also to services (e.g., meals, nursing care, laundry service), accessories and dependencies.

Particularly, the landlord may not, by a clause in the lease, restrict the lessee's right to purchase goods (e.g., pharmaceutical products) or to obtain services from the persons of his choice (e.g., medical services) in accordance with the terms and conditions agreed upon by the lessee himself.

Those rights and obligations shall be exercised in compliance with the *Charter of human rights and freedoms* which prescribes, among other things, that any elderly or handicapped person is entitled to be protected against any form of exploitation.

DETAILED DESCRIPTION OF THE DWELLING AND ACCESSORIES

Tick off where applicable	Tick off where applicable
<p>• The leased dwelling is</p> <p>– an apartment <input type="checkbox"/></p> <p>– a room <input type="checkbox"/></p> <p>– private <input type="checkbox"/></p> <p>– shared <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">number of persons, location</p> <p>• Bathroom</p> <p>– private <input type="checkbox"/></p> <p>– shared <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">number of persons, location</p> <p>• Furniture</p> <p>The lessee has the right to bring</p> <p>– electric household appliances <input type="checkbox"/></p> <p>– furniture <input type="checkbox"/></p> <p>– a television set <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">specify</p> <p>• Balcony</p> <p>– private <input type="checkbox"/></p> <p>– shared <input type="checkbox"/></p> <p>• Handrail supports</p> <p>– in the bathroom <input type="checkbox"/></p> <p>– in the corridors <input type="checkbox"/></p>	<p>• Wheelchairs</p> <p>– dwelling accessible for wheelchairs <input type="checkbox"/></p> <p>– dwelling designed for wheelchairs <input type="checkbox"/></p> <p>• Intercom <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">location</p> <p>• Call system <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">location</p> <p>• Heating</p> <p>– individual control <input type="checkbox"/></p> <p>• Air conditioning</p> <p>– individual control <input type="checkbox"/></p> <p>• Locked storage space <input type="checkbox"/></p> <p>_____</p> <p style="text-align: center;">location</p> <p>• Elevator <input type="checkbox"/></p> <p>• Common areas</p> <p>(See Recreational and social activities)</p>

* The term **landlord** used in this Schedule includes the cooperative.

This Schedule is not to be used in the case of a lease for a dwelling rented by an educational institution to a student, a lease for land intended for the installation of a mobile home or a lease for a dwelling in low-rental housing (with certain exceptions in the latter case).

Services

The landlord undertakes to provide and maintain the services identified in Columns 1 and 2 for which the lessee undertakes to pay rent.

Where a service is identified in Column 3, this means that the landlord undertakes to maintain it because the availability of that service is one of the reasons for which the lessee is renting the dwelling.

LIST OF SERVICES

	1 Tick off if included in the rent for the dwelling indicated in the lease	2 Additional rent in accordance with the term provided for in the lease (month, week or other)	3 Other services that the landlord undertakes to maintain (often payable each time used)
Religious activities			
specify _____			

Laundry			
• Laundry room	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
location _____			
number of washers _____			
number of dryers _____			
• Laundry service			
– bedding	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____ times per week			
– clothing	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____ times per week			
– dry cleaning			<input type="checkbox"/>
specify _____			

Housekeeping			
• Cleaning in lessee's apartment or room	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____ times per week			
– annual cleaning	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
specify _____			

Eligible if care of bedding or clothing is provided **at least once a week**

Eligible if housekeeping is provided **at least once a week**

LIST OF SERVICES (cont.)

	1 Tick off if included in the rent for the dwelling indicated in the lease	2 Additional rent in accordance with the term provided for in the lease (month, week or other)	3 Other services that the landlord undertakes to maintain (often payable each time used)
Recreational and social activities			
• Indoor areas			
- shared kitchen	<input type="checkbox"/>		
- right to cook	<input type="checkbox"/>		
- common room	<input type="checkbox"/>		
opening hours			
- social director	<input type="checkbox"/>		
- stereophonic system	<input type="checkbox"/>		
- television	<input type="checkbox"/>		
- personal use	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
- other: _____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
• Outdoor areas			
- recreation areas	<input type="checkbox"/>		
- rest areas	<input type="checkbox"/>		
- communal garden	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
- other: _____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
Medications			
- distribution of medications by a person authorized by law	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
- keeping of medications in a safe locked place	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Security			
- guard	<input type="checkbox"/>		
- schedule: _____			
- electronic monitoring system	<input type="checkbox"/>		

LIST OF SERVICES (cont.)

	1 Tick off if included in the rent for the dwelling indicated in the lease	2 Additional rent in accordance with the term provided for in the lease (month, week or other)	3 Other services that the landlord undertakes to maintain (often payable each time used)
Food services			
• The following meals are offered by the establishment			
– breakfast	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– lunch	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– dinner	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
Meal hours are as follows:			
breakfast: from _____ to _____			
lunch: from _____ to _____			
dinner: from _____ to _____			
– number of days per week _____			
The menu offers a choice of			
– daily specials	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– à la carte meals	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– dietetic meals	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
specify _____			
– number of snacks per day: _____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
schedule: _____			
specify _____			
Meals and snacks are served			
– in the dining room <input type="checkbox"/>			
– in the cafeteria <input type="checkbox"/>			
– in the apartment or room <input type="checkbox"/>			

Eligible if
at least two of
the three meals
are provided

LIST OF SERVICES (cont.)

	1 Tick off if included in the rent for the dwelling indicated in the lease	2 Additional rent in accordance with the term provided for in the lease (month, week or other)	3 Other services that the landlord undertakes to maintain (often payable each time used)
<p>• Guests may take a meal with a lessee Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>• Credit: Where the rent includes the cost of meals, a credit is granted to the lessee if he is absent. Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>specify _____</p> <p>_____</p> <p>_____</p>			<input type="checkbox"/>
<p>Nursing and personal care service</p>			
<p>• Presence of a professional nurse</p> <p><input type="checkbox"/> 24 hours a day</p> <p>or</p> <p>according to the following schedule:</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
<p>– other: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	\$ _____ \$ _____ \$ _____ \$ _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Television in the room or apartment</p>			
<p>– cable service</p>	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
<p>– community antenna</p>	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>

Eligible if a nurse is present at least seven hours a day

Eligible if a personal care attendant is present at least seven hours a day

LIST OF SERVICES (cont.)			
	1 Tick off if included in the rent for the dwelling indicated in the lease	2 Additional rent in accordance with the term provided for in the lease (month, week or other)	3 Other services that the landlord undertakes to maintain (often payable each time used)
Transportation	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
• Escort service for			
– medical appointments	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– errands	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– other: _____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
_____	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
– schedule: _____			

_____ times per day _____ times per week			
specify _____			

• Adapted transportation for handicapped persons	<input type="checkbox"/>	\$ _____	<input type="checkbox"/>
Schedule, if different from the			
schedule indicated above: _____			

Total additional rent		\$ _____	

Total rent to be paid by the lessee is:

Amount indicated in the lease	\$ _____
Amount of additional rent, if any (Column 2)	+ \$ _____
TOTAL RENT	
Total rent per _____	= \$ _____
Specify the term (month, week or other)	

Information on personnel	
The landlord has informed the lessee of the name and duties of the members of the personnel working in the immovable.	
Yes <input type="checkbox"/>	No <input type="checkbox"/>

SIGNATURES		
Please note: Each copy must be signed separately.		
Place of signature _____	Date _____	Signature of landlord (or his mandatory) _____
Place of signature _____	Date _____	Signature of lessee _____
Place of signature _____	Date _____	Signature of lessee _____
Place of signature _____	Date _____	Other signatory (e.g., witness or other) _____

Appendix 2 – Illustration of the fiscal policy on which the contribution rules applicable for R&D are based

□ General comments

The contribution rules apply to the refundable tax credit for R&D salary, the refundable tax credit for university R&D and the refundable tax credit for private partnership pre-competitive research.¹⁴⁵

These rules were introduced initially to ensure that a taxpayer who benefits from the tax assistance granted by the refundable tax credits for R&D is the only one to bear the financial cost in relation to the R&D work he carries out or has carried out on his behalf, without receiving a contribution from anyone the effect of which would reduce this financial cost.

The general principle underlying the contribution rules is that no tax assistance is granted in the presence of a contribution in relation to an R&D project, regardless of the size of such contribution in relation to the entire R&D project.

However, significant changes were made to the contribution rules over the years, in particular to allow the participation of players from the institutional research community in carrying out R&D projects that give rise to tax assistance.

In this regard, as a result of the changes to the contribution rules announced in the 2006 reform of tax assistance for R&D¹⁴⁶ and those announced in this Budget Speech, the tax assistance granted by the refundable tax credits for R&D will no longer be reduced where a public research entity participates actively by means of R&D spending, in carrying out an R&D project giving rise to these tax credits.

In short, three items must be present for the contributions rules to have an impact on the tax credits relating to an R&D project. These three items can be summarized as follows:

- a taxpayer;
- a contribution;
- a party to the R&D project.

145 The contribution rules also apply to the refundable tax credit for pre-competitive research that was eliminated in the March 23, 2006 Budget Speech, as mentioned in subsection 2.6.

146 GOUVERNEMENT DU QUÉBEC, 2006-2007 Budget, *Additional Information on the Budgetary Measures*, section 1, subsection 2.5, p. 57.

In this regard, it is important to point out that the definition of a contribution is less restrictive for the purposes of the refundable tax credit for R&D salary since the 2006 reform of tax assistance for R&D. For the purposes of this tax credit, a contribution can exist only in two situations:

- it represents a right to the proceeds of the disposition of the intellectual property stemming from the R&D;
- it constitutes property that the Minister of Revenue designates as being a contribution.

There are no exceptions to the contribution rules concerning these two situations. Consequently, where a contribution is made in either of these forms in relation to an R&D project, no tax assistance is granted.

Concerning the refundable tax credit for university R&D and the refundable tax credit for private partnership pre-competitive research, a contribution may exist in the two situations described above as well as in the following other situations: a cash payment, the transfer of ownership of property, the assignment of the use of or right to use property, or under any other form or any other way.

All the exceptions to the contribution rules concern only these other situations, and this also applies to the exceptions announced in this Budget Speech concerning the involvement of a public research entity that incurs or supports R&D spending for carrying out an R&D project.

The following two tables present the various aspects of each of the three essential items for the purposes of the contribution rules.

TABLE A.12

Essential items for the purposes of the contribution rules concerning the refundable tax credit for R&D salary¹

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
A taxpayer or A person not at arm's length with the taxpayer or A person designated by the Minister of Revenue	Obtained	A right to the proceeds of disposition of the intellectual property stemming from R&D	n.a.	From a person who is a party to an R&D project
	Is entitled to obtain or Can reasonably expect to obtain or Is deemed to obtain further to a determination by the Minister of Revenue	Property designated by the Minister of Revenue	n.a.	or From a person who is not at arm's length with the person who is a party to the project or From a person designated by the Minister of Revenue

1 Sections 1029.8.19.2 and 1029.8.19.5 of the *Taxation Act*. The contribution rules also cover situations that involve a partnership.

TABLE A.13

Essential items for the purposes of the contribution rules concerning the refundable tax credit for university R&D¹

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
		<p>A contribution in any form or any way</p> <p>or</p> <p>A right to the proceeds of disposition of the intellectual property stemming from the R&D</p> <p>or</p> <p>Property designated by the Minister of Revenue</p>	<p>An R&D expenditure supported by a university, research centre or consortium, that is deemed not to be a contribution²</p> <p>or</p> <p>An R&D expenditure supported by another person, which only reduces the amount of the eligible expenditure³</p> <p>or</p> <p>A transaction carried out in the normal course of business that is deemed not to be a contribution⁴</p>	

1 Section 1029.8.19.2 of the Taxation Act. The contribution rules also cover situations that involve a partnership.

2 New exception announced in the Budget Speech.

3 Section 1029.8.19.3 of the Taxation Act.

4 Section 1029.8.19.7 of the Taxation Act.

☐ Examples of application of the contribution rules

The purpose of the following two examples is to illustrate the application of the contribution rules as changed by the 2006 reform of tax assistance for R&D and by the new improvements to tax assistance for R&D announced in this Budget Speech.

Each example is accompanied by a summary table that shows only the items of the contribution rules that are at play concerning the refundable tax credit for R&D concerned.

■ **Example 1: R&D expenditures supported by a research entity in the course of a research contract**

On March 31, 2008, a corporation that carries on a business in Québec awards a research contract to a Québec university with which it is at arm's length:

- the amount of the research contract is \$100 000;
- the university will carry out all the R&D work; The university will incur or support, from its own funds, R&D expenditures in the amount of \$150 000 to carry out R&D work relating to the work stipulated in the research contract;
- the total cost of the R&D work for carrying out the research project therefore amounts to \$250 000.

In this example, the corporation could claim the refundable tax credit for R&D salary or the refundable tax credit for university R&D.

In both cases, the R&D expenditures amounting to \$150 000 incurred or supported by the university in the course of the research contract would have no impact on the amount of \$100 000 of the contract for the purposes of these two tax credits, but for different reasons.

■ **Refundable tax credit for the R&D salary**

If the corporation claimed the refundable tax credit for R&D salary, the contribution rules would have no impact on this tax credit since there would be no contribution.

The R&D expenditures amounting to \$150 000 incurred or supported by the university would not constitute a contribution for the purposes of this tax credit, because it is neither a right to the proceeds of disposition of the intellectual property stemming from the R&D nor property that the Minister designates, i.e. the only two situations henceforth covered by the restricted definition of what constitutes a contribution for the purposes of the refundable tax credit for R&D salary.

TABLE A.14

Refundable tax credit for R&D salary: application of the contribution rules concerning example 1

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
The corporation	n.a.	n.a.		The university

■ **Refundable tax credit for university R&D**

If the corporation claimed the refundable tax credit for university R&D, the contribution rules would apply because the three essential items for the application of these rules would be present.

However, under the new exception to the contribution rules announced in this Budget Speech, the R&D expenditures incurred or supported by the university for carrying out the R&D project would be deemed not to be a contribution.

TABLE A.15

Refundable tax credit for university R&D: application of the contribution rules concerning example 1

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
The corporation	Obtained	A contribution in the form of an amount of \$150 000 of R&D expenditure supported by the university	The amount of \$150 000 of R&D expenditure supported by the university is deemed not to be a contribution ¹	The university

1 New exception announced in the Budget Speech.

■ **Example 2: Developing the results of university research**

On March 31, 2008, a Québec university transfers a technology to a newly incorporated corporation:

- in consideration for this technology transfer, the university receives shares in the capital-stock of the corporation;
- two other persons are also shareholders of this new corporation;
- on March 31, 2008, the corporation awards a research contract to the university.

In this example, the corporation could claim the refundable tax credit for R&D salary or the refundable tax credit for university R&D in relation to the research contract.

The university's subscription for shares of the capital-stock of the corporation would have no impact on the refundable tax credit for R&D salary, but it would reduce to zero the tax assistance granted by the refundable tax credit for university R&D.

▪ **Refundable tax credit for the R&D salary**

If the corporation claimed the refundable tax credit for R&D salary, the contribution rules would have no impact on this tax credit since there would be no contribution.

The university's subscription for shares would not constitute a contribution for the purposes of this tax credit, because it is neither a right to the proceeds of disposition of the intellectual property stemming from the R&D nor property that the Minister designates, i.e. the only two situations henceforth covered by the restricted definition of what constitutes a contribution for the purposes of the refundable tax credit for R&D salary.

TABLE A.16

Refundable tax credit for R&D salary: application of the contribution rules concerning example 2

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
The corporation	n.a.	n.a.		The university

▪ **Refundable tax credit for university R&D**

If the corporation claimed the refundable tax credit for university R&D, the contribution rules would apply because the three essential items for the application of these rules would be present.

The subscription for shares by the university would constitute a contribution for the purposes of this tax credit, and no exception would apply in this situation. Consequently, no tax assistance would be granted under this tax credit in this example.

TABLE A.17

Refundable tax credit for university R&D: application of the contribution rules concerning example 2

Item 1, a taxpayer		Item 2, a contribution		Item 3, a party to the project
		Rules	Exceptions	
The corporation	Obtained	A contribution in the form of a subscription for shares of its capital stock by the university	n.a.	The university

Appendix 3 – Aggressive tax planning schemes

□ Background

Essentially, the practice of taxation has two components: tax compliance and tax planning. Whereas the purpose of tax compliance is to ensure that taxpayers meet their tax obligations, tax planning seeks to organize the affairs of taxpayers, while observing the applicable rules, so as to minimize their tax burden.

While the vast majority of tax planning arrangements carried out in Québec are implemented as part of genuine business transactions and consist of arrangements to minimize the tax burden that are perfectly legitimate and compliant as to both the letter and the spirit of the tax legislation, there has been a change in tax practice in this field over the past number of years, not just in Canada but also in all Western economies. More specifically, there is now significant growth in the development of “aggressive tax planning” (ATP) schemes.¹⁴⁷

■ Concept of ATP

In general, an ATP scheme is a tax avoidance arrangement that consists in reducing the effective tax rate applicable to an individual’s income to a rate lower than the one intended by fiscal policy regarding such income.

An ATP scheme is usually a sophisticated arrangement that includes many stages and makes use of complex or artificial mechanisms. Apart from the resulting tax benefits, the economic justification of an ATP scheme is generally limited and at times even totally non-existent.

Often, an ATP scheme exploits imperfections or weaknesses in one, if not more, statutes at the same time. It frequently involves circular movements of funds, shell companies or the use of financial instruments or entities that are treated differently depending on their tax jurisdiction. In addition, an ATP scheme usually features a substantial gap between the financial risk assumed by the taxpayer and the expected tax benefit.

Unlike tax evasion which involves a breach of a specific provision of the law, tax avoidance usually complies with the provisions of the law. That is why an ATP scheme is sometimes described as a tax avoidance arrangement that satisfies the letter of the law but abuses its spirit.

147 Other expressions, such as “abusive tax planning” are also used to describe this type of planning arrangement.

■ Assessment on ATP schemes

ATP schemes undermine the integrity of the tax system and lead to an erosion of the tax base. In addition, if not circumscribed, ATP schemes create a feeling among taxpayers of unfairness and injustice that, like a vicious circle, in turn increases the risk of undermining the integrity of the tax system.

To illustrate the extent of the phenomenon, note that in 2006 Québec's tax authorities intervened with legislation to put an end to an ATP scheme that, while used by less than 200 taxpayers, threatened to cost the provinces of Canada more than \$500 million in tax revenue.¹⁴⁸

Given that our tax system is based on self-assessment, i.e. a reporting system in which the taxpayer himself establishes his tax payable, the proliferation of such tax planning schemes is a real threat to Québec's tax base.

■ Growth of ATP schemes

While ATP schemes are not new, they have grown significantly in recent years. The increase in external trade and the relaxation of regulations in this field, greater mobility of capital at the international level and the globalization of consulting firms called on, now, to have an overall and integrated view of the various tax systems to which their clients are subject explain in part the growth noted in the field of ATP.

Moreover, the increasingly widespread perception in the taxation community that the design of ATP schemes is itself a specialty in taxation practice may also contribute to the growth of this phenomenon.

□ Québec strategy for combating ATP schemes

In view of the risk presented by ATP schemes, it is imperative to react vigorously to protect Québec's tax base against the proliferation of this type of tax planning scheme. Consequently, intervention at two levels is needed, i.e. at the tax administration level and at the fiscal policy level.

148 "Point de presse de M. Lawrence S. Bergman, ministre du Revenu, le mardi 30 mai 2006". In Québec. National Assembly. National Assembly website, [online]. <http://www.assnat.qc.ca/FRA/conf-presse/2006%5C060530LB.HTM> (Page viewed February 20, 2008)

■ **Tax administration: implementation of a specialized anti-ATP schemes team**

As underlined in subsection 7 of section B, the necessary financial resources will be allocated to Revenu Québec to set up a team specializing in managing, detecting and shutting down ATP schemes.¹⁴⁹

More specifically, these additional financial resources will enable Revenu Québec to increase its expertise in the ATP field, upgrade its computerized tools for detecting ATP schemes and take the appropriate means to vigorously combat ATP schemes that are identified and thus protect Québec's tax base.

■ **Fiscal policy: review of the legislative framework**

At the fiscal policy level, the legislative tools currently available to Québec's tax authorities to combat ATP – anti-avoidance provisions, penalty regime and disclosure mechanisms – must be reviewed.

Some tax jurisdictions dealing with the proliferation of ATP schemes have recently added new provisions to their legislation aimed at either detecting ATP schemes at an early stage, severely sanctioning participation in an ATP scheme, or the formulation or distribution of ATP schemes. In view of the similarity of the difficulties encountered by these other administrations with those encountered by Québec's tax authorities, an examination of these frequently innovative legislative tools and the assessment of whether it would be worthwhile incorporating some of them into Québec's tax legislation, or at least using them as models, is also an exercise that needs to be carried out.

Lastly, ATP schemes rest on the contempt of tax civic-mindedness and their use raise serious ethical issues that concern the entire taxation community. For instance, we may wonder whether it is acceptable that professionals among the most talented in our society devote their talent to developing tax planning schemes whose primary goal is to skirt the objective of provisions contained in public legislation.

■ **Presentation of a green paper in the fall of 2008**

In view of the importance, nature and scope of the issues raised by ATP schemes, a public analysis of this matter is needed. Consequently, a green paper on regulating ATP schemes will be presented in the fall of 2008. Following this exercise, legislative amendments may be announced.

149 This subsection stipulates, in particular, the transfer of additional funding of \$5.3 million from the *Provision to increase, with the approval of the Conseil du trésor, any appropriation for revenue initiatives* to the ministère du Revenu to fund the implementation of a specialized anti-ATPS team.

In launching such a public analysis, the ministère des Finances is hoping to raise the awareness of the taxation community as a whole to the questions raised by ATP, minimize tax uncertainty and prevent the legislative amendments that may arise from this exercise from taking the taxation community by surprise.

■ **Cooperation with other Canadian tax administrations**

In view of the issues stemming from ATP schemes, Québec tax authorities will continue to cooperate with other Canadian tax administrations.

In particular, this type of cooperation helps acquire a common and overall perception of the issues arising from ATP, foster cooperation among tax administrations and offer the possibility of concerted action regarding fiscal policy in the field of ATP.

Section B

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1. STIMULATING PRIVATE INVESTMENT

1.1 Investing in the digital revolution

Globalization and the opening of markets have major repercussions on the economy, communications and information sharing. All stakeholders in society are affected by, and have a role to play, in this transformation.

The Québec government plays a leadership role in the information society. The government's objectives in this context include broadening access to digital technologies to all socioeconomic groups throughout the territory of Québec and modernizing government services through the incorporation of electronic delivery.

1.1.1 Connecting Québec to high-speed Internet

The *Villages branchés du Québec* program contributed to the deployment of a vast fibre optic network in the heart of villages and throughout schools in all regions of Québec.

Access to high-speed Internet services is currently available to approximately 90% of Québec street addresses. The other 10% are located primarily in the Estrie, Côte-Nord, Chaudière-Appalaches and Gaspésie regions.

The time has come to enter a new phase and continue the development of this network in order to build the remaining ramifications that will enable service delivery to the outskirts of villages and completion of the public access network.

A new program, called *Communautés rurales branchées*, will provide financial support for the identification and implementation of collective projects from the regions, regional county municipalities and municipal, business or citizens' groups.

To this end, \$20 million in additional funding over five years will be allocated to the ministère des Affaires municipales et des Régions, including \$4 million in 2009-2010 and \$5 million in 2010-2011.

1.1.2 Support for e-government deployment

The pursuit of e-government deployment is one of the main priorities of the plan to modernize government. In this regard, certain projects receive funding from the *provision to increase, with the approval of the Conseil du trésor, any appropriation for the realization of projects pertaining to e-government.*

To improve this support and speed up e-government deployment, the government is announcing a three-part restructuring of this funding tool:

- renewal of the provision, in particular with regard to initial investments and the related depreciation necessary to the development of e-government initiatives or for promising, reusable projects;
- \$4 million in additional annual funding to continue implementing the investments committed to date and guarantee funding for the project transition phase;
- increased financial support of \$6 million a year to support and encourage the implementation of projects with strategic impact and the pursuit of initiatives to assist in making the shift to an information society.

Additional annual funding of \$10 million will be allocated to the ministère des Services gouvernementaux as of 2008-2009 for these purposes.

1.2 Tapping the economic potential of our land

1.2.1 Development of the mining sector

❑ Creation of the *Fonds du patrimoine minier*

To ensure stable funding for mining inventories by Géologie Québec and facilitate multi-year inventory planning, the Québec government is announcing the creation of a mining heritage fund called *Fonds du patrimoine minier*.

The fund will be financed entirely by royalties paid by companies to develop mineral resources in Québec under the *Mining Duties Act*. The annual injection into the fund will be \$20 million for 2008-2009 to 2010-2011 and \$10 million for subsequent years. It can be lower than this amount if net mining duties are below these amounts.

Amounts available in the fund could also be used to finance specific mining innovation programs and government bodies such as the Société québécoise d'exploration minière (SOQUEM) and the Société d'investissement dans la diversification de l'exploration (SIDEX).

TABLE B.1

Illustration of the operation of the *Fonds du patrimoine minier* (millions of dollars)

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Amount of the fund	20	20	20	10	10
Anticipated outlays	- 10	- 10	- 10	- 10	- 10
Surplus (deficit)	10	10	10	—	—
RESERVE (FUND CAPITALIZATION)¹	10	21	32	33	35

1 Based on a anticipated rate of return of 5%.

❑ Funding of the Copper Plan

The Copper Plan was launched by the Québec government in 2006 with a view to discovering new copper deposits in Québec to guarantee the long-term copper supply.

The work carried out under the Copper Plan over the last two years has already yielded conclusive results. Consequently, this work should continue to go forward as planned in order to attain the objectives set by the government when this bold plan was launched.

To this end, another \$2 million will be granted to the ministère des Ressources naturelles et de la Faune in 2008-2009 and 2009-2010.

❑ Creation of a national mining institute and other labour force development measures for the mining sector

Québec's mining sector is in great need of specialized workers, primarily in remote regions. Attracting and training workers is a considerable challenge that must be met by the mining industry to ensure its development.

Better Aboriginal involvement, youth retention in the regions concerned and reclassification of forest sector workers are courses of action for meeting these needs.

Thus, to contribute to the achievement of industry objectives regarding this crucial issue, the government is injecting \$4 million over two years to create a national mining institute in collaboration with the ministère de l'Éducation, du Loisir et du Sport. The institute's mission will be to tailor vocational training to the sector's labour needs.

This funding will also finance the introduction of targeted labour force development measures and promotion of the industry among potential workers.

To this end, another \$2 million in funding will be allocated to the ministère des Ressources naturelles et de la Faune in 2008-2009 and 2009-2010.

1.2.2 Support for the agricultural and agrifood sector

The agricultural and agrifood sector holds an important place in the Québec economy and in the daily lives of Quebecers.

However, the sector is currently going through turbulent times. The report of the Commission on the Future of Agriculture and Agrifood in Québec concluded that the sector is at a crossroads and needs a boost to make headway in the future.

To foster the renewal of the agricultural and agrifood sector and the realization of its full potential, the Québec government is announcing an investment of \$60 million over the next five years to implement measures geared to, among other things, the next generation of farmers, diversification, and research and innovation.

The particulars of these measures will be announced shortly by the Minister of Agriculture, Fisheries and Food.

To this end, an extra \$12 million will be granted to the ministère de l'Agriculture, des Pêcheries et de l'Alimentation in 2008-2009 and 2009-2010. The amount for 2008-2009 will be drawn from the Contingency Fund.

1.3 Supporting territories experiencing difficulties

Despite government efforts in recent years to support local and regional communities, a number of territories and municipalities are in need of additional support to maintain or create conditions for their economic development.

It is in this context that the Québec government is announcing funding of \$38 million to support all regions by:

- extending the Fund to Support Territories Experiencing Difficulties by two years to enable these territories to continue their recovery and diversification efforts;
- extending the fund to all regional county municipalities (RCMs) with municipalities experiencing difficulties;
- creating a new component to the fund specifically for RCMs in the central regions that have municipalities experiencing difficulties but do not have access to the fiscal measures for resource regions.

Furthermore, the Québec government remains particularly concerned about the socioeconomic situation in the Gaspésie–Îles-de-la-Madeleine administrative region, which has a higher unemployment rate than the other regions of Québec. Aside from the fiscal measures to help foster investment in this region, support must be provided to local communities to finance some basic services or infrastructure.

- The Québec government will therefore allocate \$12 million in additional funding to ensure local communities in the Gaspésie-Îles-de-la-Madeleine region remain vibrant and help them keep and attract residents and companies.

Additional funding of \$50 million over five years, including \$10 million in 2008-2009 and 2009-2010, will be allocated to the ministère des Affaires municipales et Régions for these purposes. The amount for 2008-2009 will be drawn from the Contingency Fund.

The application details of these measures will be announced by the Minister of Municipal Affairs and Regions at a later date.

1.4 Supporting cultural development

1.4.1 Presentation of performing arts in the regions

To meet the needs of the performing arts community in disseminating their art, particularly in remote regions, the ministère de la Culture, des Communications et de la Condition féminine will receive \$1 million as of 2008-2009 to enhance the quality and diversity of performing arts shows. This additional funding will serve to, among other things, extend the performing arts presentation program to new organizations and maintain the incentive measure for cultural outings offered by schools.

1.4.2 More funding for Placements Culture

Placements Culture, which has been in operation since 2005, is an incentive program aimed at encouraging individuals, companies and private foundations to give more generously to cultural and communications organizations. The program is administered by the Conseil des arts et des lettres du Québec (CALQ).

The objectives of this program are to:

- stabilize the financial situation of cultural and communications organizations by providing them with access to another source of funding;
- create favourable conditions for increased funding through donations.

The CALQ gives matching grants to eligible organizations that collect gifts and contributions from individuals, businesses or private foundations. The grant is paid when the program conditions have been met. The Fondation du Grand Montréal and the Grand Québec, Gaspésie-Les-Îles and, more recently, Estrie community foundations manage the funds invested under the program.

Thus far, 189 organizations have applied for funding under the program. Ninety-seven funds have been created and the money will be deposited in community

foundations once fundraising objectives have been met. Participating organizations will thus have \$33 million more at their disposal to help enterprises operating in the field of culture and communications.

This budget allocates another \$5 million in 2008-2009 to the ministère de la Culture, des Communications et de la Condition féminine to increase the budget of Placements Culture. In 2008-2009, Placements Culture will have a budget envelope of \$10 million to support 63 new organizations with private sector fundraising objectives.

1.4.3 Support for the Société de développement des entreprises culturelles (SODEC)

The 2008-2009 Budget allocates \$2 million in additional funding to SODEC as of 2008-2009, including \$1 million to support the fine crafts sector and \$1 million to support the books and publishing sector.

These measures will serve to, among other things, increase the assistance provided to artisans, enterprises and emerging artists studying in “studio schools” (*écoles atelier*), as well as provide assistance to book fairs, support publishing houses and help promote books in the Québec marketplace.

1.4.4 Action plan to promote the French language in Québec

The Minister of Culture, Communications and Status of Women is responsible for enforcing the *Charter of the French Language*. Passed in 1977, the Charter is intended to make French the normal and everyday language of work and affirm the right of all workers to carry on their activities in French.

The Québec government and its institutions are responsible for promoting the use of French in businesses and in the delivery of public services, such as health and social services.

The Québec government wants to reaffirm its commitment and determination to strengthen the role of the French language, while improving the quality of its use. To that end, the Minister of Culture, Communications and Status of Women will soon be releasing an action plan to promote French in Québec.

The action plan is built around three major government directions: give new impetus to the use of French in the workplace, value the French language and improve the quality of its use. Among other things, the plan will provide financial support for the francization of information technologies in the workplace as well as the promotion of good spoken and written French.

To implement the measures in the action plan, the ministère de la Culture et des Communications will receive an additional \$4.6 million in 2008-2009 and \$4.8 million in 2009-2010. The amount for 2008-2009 will be drawn from the Contingency Fund.

2. DEVELOPING QUEBECERS' KNOWLEDGE AND SKILLS

2.1 Measures to facilitate the integration of immigrants

Immigration is a key factor in improving Québec's economic growth. In addition to increasing our cultural diversity, it enables Québec to close the gap between labour supply and demand.

However, unable to find work right away, newcomers often face financial hardships. Whether it be because they do not speak the language well, have no work experience in Québec or their particular skills and competencies are not recognized, new immigrants often have trouble integrating into the labour force.

The 2008-2009 Budget provides for additional investments of \$65 million over the next five years to facilitate the francization and labour market integration of immigrants to Québec. Including the measures already provided for, a total of \$186 million will be invested over five years.

The Minister of Immigration and Cultural Communities will announce the particulars of this additional government assistance at a later date. For the purposes of these measures, the envelope of the ministère de l'Immigration et des Communautés culturelles will be increased by \$10 million as of 2008-2009. The amount for 2008-2009 will be drawn from the Contingency Fund.

2.2 Education

2.2.1 \$1-billion investment in higher education between now and 2012

Since higher education is a collective priority, the government promised to invest \$1 billion more than the budget envelope allocated to higher education in 2006-2007 by 2012. It will deliver on this promise by investing an additional \$200 million per year over five years.

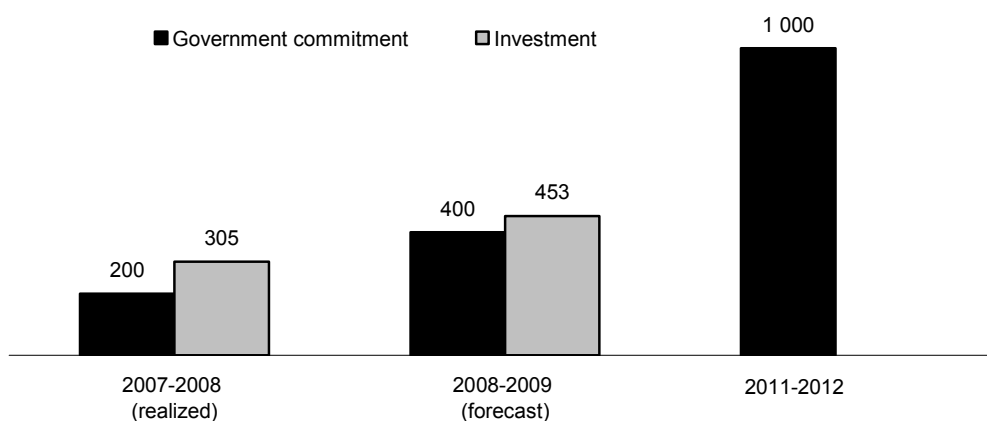
For the second year in a row, the government has surpassed its promise and is on the way to meeting the set objective by 2012.

This budget gives CEGEPs and universities \$453 million more in 2008-2009 than in 2006-2007 to deliver their services. This represents \$53 million more for this fiscal year than initially planned.

Moreover, it is important to remember that in 2007-2008 funding allocated to CEGEPs and universities was \$305 million higher than the previous year.

CHART B.1

Additional annual investments in higher education^{1,2} (cumulative, millions of dollars)



- 1 Including the budget increases for higher education needed to maintain and improve the quality of services.
2 These amounts are in addition to the federal reinvestment of \$187 million as of 2008-2009.

The \$453 million in additional funding in 2008-2009 consists of:

- \$40 million more as of 2008-2009;
- \$120 million in additional funding announced in 2007-2008 and now recurring;
- a \$293 million increase in the basic budget to maintain and improve the quality of services.

The \$40 million in new funding will enable Québec universities to:

- improve their teaching and research capacity in order to better position themselves on the international scene;
- facilitate faculty renewal and award teaching fellowships in academic disciplines that are important for Québec's development; for example, engineering and administration;
- increase the international visibility and mobility of students;
- have access to financial assistance to cover the indirect costs generated by their research activities.

Additional funding of \$40 million in 2008-2009 and \$53 million as of fiscal 2009-2010 will be allocated to the ministère de l'Éducation, du Loisir et du Sport for these purposes.

TABLE B.2

Summary of investments in higher education

(millions of dollars)

	2007-2008	2008-2009
Maintenance and improvement of the quality of services	185	293
Commitments 2007-2008	120	120
Additional funding 2008-2009	—	40
TOTAL	305	453

As promised, the government is also injecting the full amount of the federal reinvestment in federal transfers for postsecondary education, which is \$187 million as of 2008-2009, into its higher education funding.

2.2.2 More vocational and technical training

To foster greater prosperity, vocational and technical training and continuing education, delivered at the secondary and college levels, are the cornerstones for keeping the Québec economy competitive and furthering its development.

Training is the key to entering the labour market as well as a powerful determinant of a person's career path. By increasing workers' expertise, training also enables businesses to adapt more quickly to changes in the economy and new knowledge and technologies.

If Québec wishes to maintain its competitive edge and, at the same time, address the labour shortage in sectors as diverse as health and mining, it must train skilled workers faster and more effectively and efficiently.

Implementation of the Vocational and Technical Training Collaboration Plan announced on June 12, 2006, has already improved regional dialogue, the organization of training and collaboration with the workplace.

However, to adequately meet future needs for a skilled labour force, more measures are required to foster training in close partnership with business. To that end, the government is announcing new initiatives to train, support and coach individuals in their efforts to acquire new skills and competencies. These measures will make it possible to:

- increase the number of vocational and technical training graduates;
- offer better support to adults through, among other things, better coaching during their training;
- allocate resources in emerging sectors or sectors with a strong demand for skilled labour, such as mining and wind energy.

To this end, the ministère de l'Éducation, du Loisir et du Sport will receive an additional \$21.0 million in funding in 2008-2009 and \$32.6 million as of fiscal 2009-2010. The amount for 2008-2009 will be drawn from the Contingency Fund.

Including the funding already provided for in the budget envelope for this department, the measures for vocational and technical training will represent total investments of \$26.1 million and \$40.6 million in 2008-2009 and 2009-2010 respectively. The allocation of these funds will be disclosed by the Minister of Education, Recreation and Sports.

TABLE B.3

Additional investments in vocational and technical training

(millions of dollars)

	2008-2009	2009-2010
New Initiatives under the 2008-2009 Budget		
Increase in the number of graduates	12.8	20.1
Support and coaching for adults	11.5	18.0
Emerging sectors or sectors with a strong demand for skilled labour	1.8	2.5
Total	26.1	40.6
Funding provided for in the expenditure envelope	– 5.1	– 8.0
ADDITIONAL FUNDING UNDER THE 2008-2009 BUDGET	21.0	32.6

2.2.3 Support for handicapped students and students with social maladjustments or learning disabilities

Over the past few years, the government has increased the resources allocated to support handicapped students and students with social maladjustments or learning disabilities in elementary and secondary schools. Funding has already been granted to hire teacher-orthopedagogues and supply teachers, as well as to hire and retain professional and support staff. More resources are also available for teachers' professional development.

In order to support the efforts and ensure the successful mainstreaming of handicapped students and students with learning disabilities, the government is allocating an extra \$5.0 million in 2008-2009 and \$7.8 million as of 2009-2010 to the ministère de l'Éducation, du Loisir et du Sport.

This new funding will make it possible to meet the expectations of parents and the general population regarding the need to provide support to students having trouble learning in school while respecting the needs of all students.

3. STAYING THE COURSE TOWARDS SUSTAINABLE DEVELOPMENT

The Québec government has, on several occasions, affirmed its leadership in the area of environment and sustainable development. A number of strategies and action plans have been put in place over the past few years to ensure that Québec's economic development is socially acceptable and respectful of the environment.

Government initiatives in the area of environment and sustainable development
<p>In spring 2006, at the end of a consultation process initiated in November 2004, the Québec government released the Québec Energy Strategy 2006-2015, which places special emphasis on the development of hydroelectricity and wind power. In June 2006, the government adopted the Québec Public Transit Policy.</p> <p>Rounding out these two major government commitments, the 2006-2012 Action Plan on Climate Change contains a coherent set of measures to reduce greenhouse gas (GHG) emissions and adapt to climate change.</p> <p>Then, in December 2007, the government tabled the Government Sustainable Development Strategy 2008-2013, a key element of the <i>Sustainable Development Act</i> passed in April 2006. The vision, directions and objectives of the strategy make it the reference framework for government action in the area of sustainable development.</p> <p>A concern for the environment is also reflected in the Québec Research and Innovation Strategy and the Action Plan to Support the Manufacturing Sector. Moreover, this action plan states that the government will invest \$25 million in the creation of a clean technologies venture capital fund (Cycle Capital Fonds I, s.e.c.).</p>

To stay this course, the 2008-2009 Budget provides for a number of actions to preserve the environment, promote the value of natural heritage, safeguard biological diversity and make Québec a world leader in environment and green technologies.

3.1 Supporting the demonstration of new clean technologies

Quebecers' environmental awareness and societal expectations with regard to sustainable development are increasingly evident. In addition, the cleantech sector is expanding at the international level and Québec companies need to tap into the opportunities it provides.

To further stimulate the development of this sector in Québec as well as the use of clean technologies by industry, the government is announcing a series of measures to develop Québec's environment and cleantech sector. The details will be announced shortly by the Minister of Economic Development, Innovation and Export Trade and the Minister of Sustainable Development, Environment and Parks.

More than \$225 million already provided for in various government strategies and action plans could be used under these measures to fund the development of this sector.

Currently, significant resources are deployed to reduce greenhouse gas (GHG) emissions and thereby help improve air quality and combat climate change. More could be done to develop water and soil technologies. An extra \$12 million in funding over the next four years will be provided to support the demonstration of innovative technologies relating to water and soil.

To this end, \$3 million in additional funding in 2008-2009 and 2009-2010 will be allocated to the ministère du Développement économique, de l'Innovation et de l'Exportation. The amount for 2008-2009 will be drawn from the Contingency Fund.

3.2 Sépaq's investment plan

The Société des établissements de plein air du Québec (Sépaq) administers and operates the public facilities of Québec's networks of national parks, wildlife sanctuaries and tourist centres.

In recent years, Sépaq embarked on a major program to modernize and upgrade its infrastructures. To continue consolidating and developing its network, Sépaq will invest \$55 million in the coming years to:

- develop the territories it oversees along with their potential;
- preserve wilderness areas;
- develop and enhance wildlife areas;
- consolidate the supply of products and services;
- ensure the longevity of its assets.

The ministère du Développement durable, de l'Environnement et des Parcs will receive an additional \$6 million per year as of 2011-2012 to finance these investments.

3.3 Network of northern national parks

With the participation of the Inuit and Crees of Québec, the government is pursuing the objective of designating more than 30 000 km² of public land as national parks. Over the next three years, a total of \$26 million will be invested in the establishment of large national parks and their development by Aboriginal communities.

These efforts are part of the government's goal of designating at least 8% of Québec's land mass as protected areas while favouring economic diversification in Aboriginal communities.

The government is allocating \$1.5 million over the next three years to the establishment of new national parks in northern Québec.

Additional funding of \$600 000 in 2008-2009 and \$500 000 in 2009-2010 will be granted to the ministère du Développement durable, de l'Environnement et des Parcs for this purpose. The amount for 2008-2009 will be drawn from the Contingency Fund.

3.4 Working in partnership to establish a network of protected areas on private land

In Québec, responsibility for establishing protected areas on public land in relatively unpopulated areas essentially falls to the State. However, some regions, more specifically in southern Québec, harbour rare, threatened or vulnerable natural sites located in areas under pressure from economic development and urban spread.

The government intends to support the initiatives of conservation agencies and private landowners by encouraging, in particular, the acquisition of privately owned tracts of land to be designated as protected areas. In doing so, the government hopes to consolidate the existing network of protected areas on private land and triple the surface area of the network to 300 km² over the next five years.

A five-year budget of \$25 million will be granted to build partnerships for the purposes of developing the network of protected areas on private land.

Additional funding of \$1.6 million in 2008-2009 and \$2.5 million in 2009-2010 will be granted to the ministère du Développement durable, de l'Environnement et des Parcs to achieve this goal. The amount for 2008-2009 will be drawn from the Contingency Fund.

3.5 Creation of the *Bureau québécois des connaissances sur l'eau*

Québec has over 3% of the world's renewable freshwater reserves. Sustainable management of this resource demands thorough knowledge of Québec's major aquifers and the development of expertise in water management and technologies.

In 2002, the government released the Québec Water Policy whereby it undertook to inventory Québec's major aquifers within the following 15 years. An estimated 20% of the St. Lawrence Lowlands has been mapped to date.

Out of a concern for the sustainable use, restoration and conservation of the water resource for the benefit of present and future generations, \$13.5 million over five years will be invested in the creation of an office of water knowledge (the *Bureau québécois de connaissance sur l'eau*), whose mission will be to build financial and scientific partnerships for the purpose of filling knowledge gaps concerning water.

Additional funding of \$2.7 million in 2008-2009 and 2009-2010 will be allocated to the ministère du Développement durable, de l'Environnement et des Parcs for this purpose. The amount required for 2008-2009 will be drawn from the Contingency Fund.

3.6 Watershed-based management

When applied to surface water, “watershed” means a geographic area bounded peripherally by a water parting and draining to a common outlet.

Basin organizations are the principal players in integrated water management at the watershed level. Composed of representatives of regional county municipalities, municipalities, users, citizens and environmental groups, basin organizations are issue and planning tables recognized and subsidized by the government. There are currently 33 basin organizations in Québec.

In September 2007, in the context of the forum on blue-green algae, the government undertook to define, in partnership with the *Regroupement des organismes de bassin versant du Québec*, the geographical boundaries of the territories of basin organizations with the aim of applying the watershed-based management approach throughout southern Québec and improve knowledge about the water resource in these areas, as provided for in the Québec Water Policy. A budget of \$15 million over five years will be allocated to this initiative.

An additional \$3 million in funding in 2008-2009 and 2009-2010 will be granted to the ministère du Développement durable, de l'Environnement et des Parcs for this purpose. The amount for 2008-2009 will be drawn from the Contingency Fund.

4. SUPPORTING FAMILIES

4.1 Fund of \$400 million over 10 years for the development of children under 5 living in poverty

The 2008-2009 Budget provides for the creation of a new \$400-million fund to finance projects promoting the development of children living in poverty.

An agreement in principle was signed between the Québec government and the Lucie and André Chagnon Foundation to create the fund. The objectives of the fund, along with the terms and conditions for approving projects, will be more clearly defined in a memorandum of understanding between the parties. The Minister of Education, Recreation and Sports and Minister of Families will table a bill in this regard during the spring 2008 parliamentary session.

The governance and operation of the new fund for the development of young children will be modelled on the fund for the promotion of a healthy lifestyle created by the government in partnership with the Chagnon family.

The new fund will receive an injection of \$15 million a year from the government and \$25 million a year from the Lucie and André Chagnon Foundation, for a total of \$400 million over the next 10 years. The government's contribution to the fund will be drawn from tax revenues from tobacco products.

5. IMPROVING THE QUALITY OF LIFE OF SENIORS

5.1 Transitional financial compensation program for seniors living in a residence or in rental housing

The 2008-2009 Budget provides for improvement to and substantial simplification of the refundable tax credit for home support for elderly persons. The vast majority of seniors who currently receive the tax credit will benefit from the changes, in particular because of the rise, from 25% to 30%, in the rate of the tax credit.

However, in certain cases, the tax credit will be lower than the amount paid in advance in 2007. For example, this may be so if the amount paid in advance was too high because residence managers had difficulty assessing eligible expenses.

To avoid penalizing seniors further to these changes, the 2008-2009 Budget provides for a transitional financial compensation program for seniors living in a residence or in rental housing. The program will compensate seniors whose refundable tax credit for home support for elderly persons is lower than the advance payments made in 2007 up until the day of the 2008-2009 Budget Speech.

However, the program will not compensate seniors for a reduction in the tax credit stemming from family income in excess of \$50 000.

The amount of financial compensation will be determined by Revenu Québec and paid in advance so that seniors do not sustain a drop in financial assistance during the year. The Minister of Revenue will announce the application details of the new program at a later date.

To this end, additional funding of \$3.7 million in 2008-2009 and \$3.3 million in 2009-2010 will be provided for in the budget envelope of the ministère du Revenu. The amount for 2008-2009 will be drawn from the Contingency Fund.

5.2 Fund of \$200 million over 10 years for the development of respite and assistance services for informal caregivers

In partnership with Sojecci II Ltée, a family holding of the Lucie and André Chagnon family, the 2008-2009 Budget provides for the creation of a special \$200-million fund for the development of respite and assistance services for informal caregivers who look after an elderly person at home or support one or more family members.

An agreement in principle was signed between the Québec government and André Chagnon to create the fund. The objectives of the fund, along with the terms and conditions for approving projects, will be more clearly defined in a memorandum of understanding between the parties. The Minister responsible for Seniors will table a bill in this regard during the spring 2008 parliamentary session.

The governance and operation of the new fund for the development of respite and assistance services for informal caregivers will be modelled on the fund for the promotion of a healthy lifestyle created by the government in partnership with the Chagnon family.

The new fund will receive an injection of \$15 million a year from the government and \$5 million a year from Sojecci II Ltée, for a total of \$200 million over the next 10 years. The government's contribution to the fund will be drawn from tax revenues from tobacco products.

5.3 Support for local initiatives to increase respect for seniors

In the public consultation on the living conditions of seniors, one of the major issues raised was the high number of seniors who are victims of physical or psychological violence, abuse or neglect, or whose rights are violated.

To step up the fight against this phenomenon, the 2008-2009 Budget provides for a recurring annual budget of \$5 million to support local initiatives aimed at increasing respect for seniors. This amount will be used in particular to:

- facilitate the implementation, in Québec, of measures similar to those of DIRA-Laval¹;
- target the detection of physical violence and abuse against seniors;
- improve intervention in the case of seniors who experience such situations;
- assist seniors in their efforts to obtain support;
- promote actions aimed at projecting a positive image of aging and seniors.

The program will fund projects or the creation of community organizations working in this niche. Interventions must be initiated by communities and based on active participation of local volunteers and seniors.

To this end, \$5 million in additional funding will be provided for in the budget envelope of the ministère de la Famille et des Aînés as of 2008-2009. The Minister responsible for Seniors will soon disclose how this amount will be used. The amount for 2008-2009 will be drawn from the Contingency Fund.

1 DIRA-Laval's mission is fourfold:

- Detect and report violence, abuse and neglect committed against seniors;
- Inform and take action with regard to seniors and the public;
- Refer seniors to other resources and assess intervention on an ongoing basis;
- Accept seniors, without bias, and assist them in their efforts.

5.4 Improving food quality in residential and long-term care centres

A healthy, balanced diet prevents many health problems and enhances the quality of life of seniors in public residential and long-term care centres (CHSLDs) and in private CHSLDs under agreement. Many seniors require special diets due to health problems (e.g. diabetes) or their general physical condition (e.g. difficulty feeding themselves or loss of appetite).

Some CHSLDs have developed expertise in this area by improving the quality of the food offered to their residents (taste, meal presentation, etc.). This approach should be adopted throughout the network.

To support initiatives to improve food quality for CHSLD residents, the 2008-2009 Budget provides for an annual budget envelope of \$3 million as of 2008-2009.

To this end, the budget envelope of the ministère de la Famille et des Aînés will be increased by \$3 million a year as of 2008-2009. The amount for 2008-2009 will be drawn from the Contingency Fund.

6. SOCIAL DEVELOPMENT

6.1 Funding of the *Chantier de l'économie sociale*

The mission of the *Chantier de l'économie sociale* working group is to promote the social economy as an integral part of Québec's socioeconomic structure. It also fosters and supports the emergence, development and consolidation of social economy businesses and organizations in a number of economic sectors.

Under the most recent three-year agreement entered into with the agreement, the *Chantier de l'économie sociale* received an annual grant of \$450 000. To further support the development of the social economy, the government is announcing the renewal of the grant, adding to it an extra \$200 000. Thus, total assistance is raised to \$650 000 for the next five years.

To this end, the ministère des Affaires municipales et des Régions will receive \$650 000 in additional funding in 2008-2009 and the following four years.

6.2 Investment of \$132 million for the construction of 2 000 social housing units

The 2008-2009 Budget provides for an investment of \$132 million for the construction of 2 000 social housing units under the AccèsLogis Québec program. This is the fifth consecutive budget to announce investments in social housing construction.

Thus, the government raises to 24 000 the number of social housing units that will be built. That is 11 000 units more than the initial objective of 13 000 units. With this commitment, the government will have devoted nearly \$1.1 billion to the construction of social housing, that is:

- 14 930 housing units under the AccèsLogis Québec program;
- 9 070 housing units under the Affordable Housing Québec program.

TABLE B.4

Construction of social housing units announced by the Québec government

	AccèsLogis Québec	Affordable Housing Québec	Total
Initial objective	6 500	6 500	13 000
Budgets			
- 2008-2009	2 000	—	2 000
- 2007-2008	2 000	—	2 000
- 2006-2007	1 400	—	1 400
- 2005-2006	2 600	—	2 600
- 2004-2005	430	2 570	3 000
Total – last five budgets	8 430	2 570	11 000
TOTAL	14 930	9 070	24 000

As at December 31, 2007, of the 24 000 social housing units provided for:

- 12 999 had been delivered;
- 4 842 were under way;
- 6 159 had yet to be built.

TABLE B.5

Number of social housing units completed and under way¹

	Units		Upcoming projects ²			Total
	Delivered	Under way	Before budget	2008-2009 Budget	Subtotal	
AccèsLogis Québec	6 107	3 272	3 551	2 000	5 551	14 930
Affordable Housing Québec	6 892	1 570	608	—	608	9 070
TOTAL	12 999	4 842	4 159	2 000	6 159	24 000

¹ As at December 31, 2007.

² Includes units being reviewed by the Société d'habitation du Québec and units under way or reserved for certain regions.

To make these additional investments, the budget of the ministère des Affaires municipales et des Régions earmarked for the Société d'habitation du Québec will be increased by \$100 000 in 2009-2010 and by \$1 million in 2010-2011.

7. ENSURING THE INTEGRITY OF THE TAX SYSTEM

To ensure that all taxpayers pay for their fair share of public services, the government, backed by a number of the organizations concerned, has worked hard in recent years to ensure the integrity of the tax system. The government is maintaining the measures already in place, which target such areas as contraband tobacco and the construction and money services sectors, and will intensify the fight against tax evasion and avoidance through new initiatives.

7.1 New initiatives to fight tax evasion and avoidance

Globalization and technological development have facilitated the introduction and proliferation of aggressive tax planning (ATP). To expose these tax avoidance strategies, a team of experts will be set up at Revenu Québec.

Other projects will also be implemented to fight tax evasion, including the installation of a sales recording module in some restaurants as part of a pilot project announced last January by the Minister of Revenue.

To ensure the integrity of the tax system, \$9.0 million in additional annual funding will be allocated to the ministère des Finances and entered under the *provision to increase, with approval of the Conseil du trésor, any appropriation for revenue initiatives* as of 2008-2009. Of this new injection, \$5.3 million a year for the next three years will be transferred to the ministère du Revenu to fund the specialized ATP team.

These various initiatives in the fight against tax evasion and avoidance will raise the government's annual revenues by \$85.0 million.

7.2 Tax compliance regarding public contracts

Like other administrations, the Québec government will require tenderers to provide a certificate of tax compliance before obtaining a public contract. A draft regulation in this regard will be published in the coming months.

Section C

Financial Impact of Fiscal and Budgetary Measures

Financial impact of fiscal and budgetary measures
2008-2009 Budget Speech
(millions of dollars)

	Financial impact for the government		
	Full year	2008-2009	2009-2010
A. REVENUE MEASURES¹			
1. MEASURES CONCERNING INDIVIDUALS			
1.1 Developing Quebecers' knowledge and skills			
New Work Premium Supplement for long-term recipients giving up last resort financial assistance	- 18.0	- 7.3	- 18.0
New Work Premium for persons with a severely limited capacity for employment	- 3.0	- 2.0	- 3.0
Possibility of advance payment of the Work Premium for households without children	—	- 2.7	—
Full indexing of the deduction for workers	—	- 2.0	- 9.0
Subtotal	- 21.0	- 14.0	- 30.0
1.2 Supporting families			
Improvement of the refundable tax credit for child care expenses	- 20.0	- 5.0	- 20.0
Improvement of the refundable tax credit for the treatment of infertility	- 2.0	- 2.0	- 2.0
Improvement of the refundable tax credit for adoption expenses	- 1.0	- 1.0	- 1.0
Subtotal	- 23.0	- 8.0	- 23.0
1.3 Improving the quality of life of seniors			
Increase from \$1 500 to \$2 000 in the amount of the tax credit for retirement income	- 47.0	—	- 22.0
Indexing of the amount giving entitlement to the tax credit with respect to age	—	—	- 2.0
Indexing of the amount giving entitlement to the tax credit for retirement income	—	—	—
Simplification and improvement of the refundable tax credit for home support for elderly persons	- 35.0	- 35.0	- 35.0
New refundable tax credit for respite expenses of informal caregivers	- 10.0	- 10.0	- 10.0
Subtotal	- 92.0	- 45.0	- 69.0
1.4 Encouraging savings			
Creation of a tax-free savings accounts	—	- 1.0	- 7.5
Reduction in the gross-up rate applicable to eligible dividends	- 20.0	—	—
Sub-total	- 20.0	- 1.0	- 7.5
1.5 Other measures concerning individuals			
Improvement of the stock option plan for SMEs pursuing innovative activities	- 6.0	- 2.0	- 4.0
Increase in the deduction for people living in remote regions	- 1.0	- 1.0	- 1.0
Sub-total	- 7.0	- 3.0	- 5.0
Sub-total	- 163.0	- 71.0	- 134.5

1 Most of these measures are presented in sections E and F of the 2008-2009 Budget Plan.

Financial impact of fiscal and budgetary measures
2008-2009 Budget Speech
(millions of dollars)

	Financial impact for the government		
	Full year	2008-2009	2009-2010
2. MEASURES CONCERNING BUSINESSES			
2.1 Immediate elimination of the tax on capital for the manufacturing sector	—	– 30.0	– 50.0
2.2 Increasing private investment in all the regions			
New tax credit of 5% for investment in manufacturing and processing equipment	– 110.0	– 30.0	– 60.0
Accelerated depreciation for manufacturing and processing equipment in the manufacturing sector	—	—	– 25.0
Sub-total	– 110.0	– 30.0	– 85.0
2.3 Support for innovative activities			
New refundable tax credit for the development of e-business	– 200.0	– 20.0	– 30.0
Improvements to R&D tax credits	– 11.0	– 3.0	– 7.0
Sub-total	– 211.0	– 23.0	– 37.0
2.4 Support for investment in the resource regions			
Investment tax credit at the increased rate of 20%, 30% or 40% in the resource regions	– 120.0	– 20.0	– 50.0
One-year extension of the tax credits for processing activities in the resource regions	—	—	– 3.0
Extension and modification of the tax credit for Gaspésie and certain maritime regions of Québec	– 7.0	—	– 2.0
Extension and modification of the tax credit for the Vallée de l'aluminium	– 5.0	—	– 1.0
Sub-total	– 132.0	– 20.0	– 56.0
2.5 Developing Quebecers' knowledge and skills			
Improvement in the tax credit for on-the-job training of handicapped persons and immigrants	– 2.0	—	– 2.0
Introduction of a refundable tax credit for francization in the workplace	– 4.0	– 1.0	– 2.0
Sub-total	– 6.0	– 1.0	– 4.0
2.6 Other measures concerning businesses			
Acceleration of capital cost allowances for the production of clean energy	—	—	– 1.0
Broadening of the refundable tax credit for the production of shows	– 1.5	– 0.5	– 1.0
Sub-total	– 1.5	– 0.5	– 2.0
Sub-total	– 460.5	– 104.5	– 234.0

Financial impact of fiscal and budgetary measures
2008-2009 Budget Speech
(millions of dollars)

	Financial impact for the government		
	Full year	2008-2009	2009-2010
3. OTHER REVENUE MEASURES			
Creation of the <i>Fonds du patrimoine minier</i>	– 10.0	– 20.0	– 20.0
Fund of \$400 million over 10 years for the development of children under 5 living in poverty	—	– 15.0	– 15.0
Fund of \$200 million over 10 years for the development of respite and assistance services for informal caregivers	—	– 15.0	– 15.0
Application of the QST to health services	– 5.0	—	– 5.0
Application of the QST to long-term care centres for resident users	– 1.0	– 1.0	– 1.0
Additional revenue from the new initiatives to fight tax evasion and avoidance	—	85.0	85.0
Sub-total	– 16.0	34.0	29.0
TOTAL IMPACT OF REVENUE MEASURES	– 639.5	– 141.5	– 339.5

Financial impact of fiscal and budgetary measures
2008-2009 Budget Speech
(millions of dollars)

	Financial Impact for the government	
	2008-2009	2009-2010
B. EXPENDITURE MEASURES¹		
1. Stimulating private investment		
1.1 Investing in the digital revolution		
Connecting Québec to high-speed Internet	—	– 4.0
Support for e-government deployment	– 10.0	– 10.0
Sub-total	– 10.0	– 14.0
1.2 Tapping the economic potential of our land		
Adjustment of funding for Géologie Québec	7.0	7.0
Funding of the Copper Plan	– 2.0	– 2.0
Creation of a national mining institute and other labour force development measures for the mining sector	– 2.0	– 2.0
Support for the agricultural and agrifood sector	– 12.0	– 12.0
Sub-total	– 9.0	– 9.0
1.3 Supporting territories experiencing difficulties	– 10.0	– 10.0
1.4 Supporting cultural development		
Presentation of performing arts in the regions	– 1.0	– 1.0
More funding for Placements Culture	– 5.0	—
Support for the Société de développement des entreprises culturelles (SODEC)	– 2.0	– 2.0
Action plan to promote the French language in Québec	– 4.6	– 4.8
Sub-total	– 12.6	– 7.8
Sub-total	– 41.6	– 40.8
2. Developing Quebecers' knowledge and skills		
Measures to facilitate the integration of immigrants	– 10.0	– 10.0
\$1-billion investment in higher education by 2012	– 40.0	– 53.0
More vocational and technical training	– 21.0	– 32.6
Support for handicapped students or students with social maladjustments and learning disabilities	– 5.0	– 7.8
Sub-total	– 76.0	– 103.4

1 Most of the measures are presented in sections E and F of the 2008-2009 Budget Plan.

Financial impact of fiscal and budgetary measures

2008-2009 Budget Speech

(millions of dollars)

	Financial impact for the government	
	2008-2009	2009-2010
3. Staying the course towards sustainable development		
Supporting the demonstration of new clean technologies	– 3.0	– 3.0
Sépaq's investment plan	—	—
Network of northern national parks	– 0.6	– 0.5
Working in partnership to establish a network of protected areas on private land	– 1.6	– 2.5
Creation of the <i>Bureau québécois des connaissances sur l'eau</i>	– 2.7	– 2.7
Watershed-based management	– 3.0	– 3.0
Sub-total	– 10.9	– 11.7
4. Improving the quality of life of seniors		
Transitional financial compensation program for seniors living in a residence or in rental housing	– 3.7	– 3.3
Support for local initiatives to increase respect for seniors	– 5.0	– 5.0
Improving food quality in residential and long-term care centres	– 3.0	– 3.0
Sub-total	– 11.7	– 11.3
5. Social development		
Funding of the <i>Chantier de l'économie sociale</i>	– 0.7	– 0.7
Investment of \$132 million for the construction of 2 000 social housing units	—	– 0.1
Sub-total	– 0.7	– 0.8
6. New initiatives to fight tax evasion and avoidance	– 9.0	– 9.0
TOTAL IMPACT OF EXPENDITURE MEASURES	– 149.9	– 177.0
TOTAL IMPACT OF REVENUE MEASURES	– 141.5	– 339.5
TOTAL IMPACT OF FISCAL AND BUDGETARY MEASURES	– 291.4	– 516.5

Note: A negative entry means a cost for the government.

Use of amounts from the federal trust for community development (\$217 million) in the present budget

(millions of dollars)

	2008-2009	2009-2010
More vocational and technical training	21.0	32.6
Support for territories experiencing difficulties	10.0	10.0
Employment Pact	12.0	23.0
Resource regions	20.0	50.0
Investments in all the regions	30.0	8.4
TOTAL	93.0	124.0
		217.0

