2000-2001
BUDGET

Additional Information on the Budgetary Measures

Québec
Ministère des Finances

Section 1

Revenue Measures

1. MEASURES CONCERNING INDIVIDUALS

1.1 Reduction of personal income tax

The personal income tax reduction plan announced in this Budget Speech contains three essential measures: replacement of the table used to calculate the amount of personal income tax payable on taxable income, improvement of the tax reduction in respect of families and full indexation of the income tax system.

1.1.1 New tax tables

The current tax table contains three rates that increase progressively with the taxable income brackets defined by the table. According to this rate structure, taxable income of up to $25 000 is taxed at the rate of 20%, rising to 23% for taxable income exceeding $25 000 but not exceeding $50 000, and 26% for taxable income above $50 000.

This tax table will be replaced under the personal income tax reduction plan. As of the 2000 taxation year, the value of each taxable income bracket will change. More specifically, the first bracket will include the first $26 000 of taxable income, the second bracket, taxable income exceeding $26 000 but not exceeding $52 000, and the third bracket, taxable income above $52 000.

Furthermore, the tax rates used to calculate the amount of income tax payable on an individual's taxable income will change in each of the 2000, 2001 and 2002 taxation years, with the rate structure established for the 2002 taxation year applying to subsequent taxation years as well.

The new rate structure, which will maintain the progressivity of the tax system, is as follows:

— the tax rate applied to the first taxable income bracket will be 19% in the 2000 taxation year, 18% in the 2001 taxation year and 17% as of the 2002 taxation year;

— the tax rate applied to the second taxable income bracket will be 22.5% in the 2000 and 2001 taxation years and 22% as of the 2002 taxation year;

— the tax rate applied to the third taxable income bracket will be 25% in the 2000 and 2001 taxation years and 24% as of the 2002 taxation year.

In addition, given the changes to the tax table, the rate used to convert recognized amounts to non-refundable tax credits will be adjusted accordingly. Currently 23%, this rate will be reduced to 22% in the 2000 taxation year, to 21.5% in the 2001 taxation year and to 21% effective the 2002 taxation year.

TABLE 1.1

COMPARISON OF THE CURRENT TAX TABLE AND THE NEW TAX TABLES

		Before Budget	After Budget		
			2000	2001	2002
Tax table					
Taxable income brackets					
Income greater than	But not exceeding				
0	$25 000	20%	19%	18%	17%
$25 000	$26 000	23%			
$26 000	$50 000	23%	22.5%	22.5%	22%
$50 000	$52 000	26%			
$52 000		26%	25%	25%	24%
Rate used to convert recognized amounts to non-refundable tax credits		23%	22%	21.5%	21%

1.1.2 Improvement of the tax reduction in respect of families

Under the current rules, taxpayers with dependent children can claim a maximum tax reduction of $1 500 in the case of a couple with children and $1 195 in the case of a single-parent family. This amount is reduced by 6% of every dollar of the family income that exceeds $26 000.

As a further incentive for workers with children who will be permanently joining the labour market, changes will be introduced beginning in the 2000 taxation year to lower the rate used to reduce the tax reduction in respect of families to below 6%.

This rate will thus be reduced to 5% in the 2000 taxation year, to 4% in the 2001 taxation year, and to 3% effective the 2002 taxation year.

To enable taxpayers to benefit from the lower tax-back rate applied to the tax reduction in respect of families as quickly as possible, the tax regulations will be amended to take this decline into account in the calculation of source deductions that must be made on various payments made to individuals. However, since the drop in the tax-back rate from 6% to 5% is retroactive to January 1, 2000, the rate of 4.5% will be used to calculate source deductions on payments made after April 30, 2000 but before January 1, 2001.

1.1.3 Full indexation of the income tax system

To continue protecting taxpayers' purchasing power, the personal income tax system will automatically be fully indexed beginning January 1, 2003.

To this end, the indexing factor applied to a given taxation year will be equal to the percentage change in the average Québec consumer price index (QCPI) for the 12-month period ended September 30 of the previous year compared to the average QCPI for the 12-month period ended September 30 of the year before that.

As a rule, this indexing factor will be applied, for a given taxation year, to the established value of indexed parameters in the previous taxation year.

Where the amount obtained by applying the indexing factor to a given parameter is not a multiple of $5, it will be rounded off to the nearest multiple of $5, or, where it is halfway between two such multiples, rounded up the nearest multiple of $5.

All three taxable income brackets in the tax table will automatically be indexed, as will the various family income brackets defined in the rate table used to calculate the refundable tax credit for child care expenses.

Other parameters that will automatically be indexed are shown in the table below.

TABLE 1.2

TAX PARAMETERS SUBJECT TO AUTOMATIC INDEXATION
(in dollars)

Parameter	Current amount
Essential amounts	
Basic amount	5 900
Amount for persons living alone	1 050
Amount respecting a spouse	5 900
Amount respecting dependent children	
— 1st child	2 600
— 2nd and subsequent children	2 400
— amount for a single-parent family	1 300
Amount respecting children engaged in post-secondary studies	
— per term (maximum 2)	1 650
Amount respecting other dependants	2 400
Amount respecting other dependants with an infirmity	5 900
Flat amount under the simplified tax system	2 515
Reduction threshold for certain tax credits[1]	26 000
Certain refundable tax credits	
Refundable tax credit for medical expenses	
— maximum amount	500
— reduction threshold	17 500
Québec sales tax credit	
— maximum amount per adult	154
— maximum amount for a person living alone	103
Tax credit for residents of a northern village	
— monthly amount per adult	35
— monthly amount respecting dependant	15
Real estate tax refund	
— maximum allowable taxes	1 285
— amount per adult	430

1 Tax credit for persons living alone, with respect to age and for retirement income, tax reduction in respect of families, QST credit, tax credit for residents of a northern village and real estate tax refund.

1.1.4 Changes in source deductions of personal income tax

To enable taxpayers to benefit as quickly as possible from the personal income tax reduction--retroactive to January 1, 2000--source deductions required on certain payments to individuals will be adjusted as of May 1, 2000.

❑ Source deduction table and mathematical formula

As a rule, every person who at any time during a taxation year pays an amount hereinafter referred to as “remuneration”, including salaries, wages and pension benefits, must deduct or withhold an amount on account of the annual income tax payable by the recipient.

The amount to be deducted or withheld is the amount determined according to a mathematical formula authorized by the Minister of Revenue, or the amount determined in accordance with the income tax source deduction table, or, where the recipient’s pay period is not provided for in this table or the amount paid is greater than the amount provided for in this table, is an amount equal to that proportion of the payment that the recipient’s tax as estimated for the year, on the basis of current rates and the recipient’s personal tax credits, is of the recipient’s estimated annual pay.

To account for the changes that will be made to the tax table, a new mathematical formula and a new income tax source deduction table will apply to all remuneration paid after April 30, 2000 but before January 1, 2001.

To this end, the tax regulations will be amended so that the rate used to convert recognized amounts to personal tax credits is deemed 21.67%, and the adjustment factor applied to these tax credits is 4.6.

Moreover, for remuneration paid after April 30, 2000 but before January 1, 2001, where the recipient’s pay period is not provided for in the new income tax source deduction table or the amount paid is greater than the amount provided for in this table, the amount to be deducted at source shall be determined as if the conversion rate for personal tax credits were 21.67% and the current rates for the 2000 taxation year were as follows:

— 18.5% for taxable income up to $26 000;

— 22.33% for taxable income exceeding $26 000 but not exceeding $52 000;

— 25% for taxable income above $52 000.

❑ Lump sum payments

Under the current system, an employer who makes a lump sum payment under a registered retirement income fund or a registered retirement savings plan, in particular, or as a retiring allowance is normally required to withhold personal income tax equal to 20% of the payment if it does not exceed $5 000 and 23% if the payment exceeds $5 000.

To ensure these source deduction rates are consistent with the changes to the tax table, the tax regulations will be amended so that the deduction rate for lump sum payments is equal to:

— 19% for payments made between after April 30, 2000 but before January 1, 2001, where the payment does not exceed $5 000, and 22% where the payment exceeds this amount;

— 18% for payments made after December 31, 2000 but before January 1, 2002, where the payment does not exceed $5 000, and 21.5% where the payment exceeds this amount;

— 17% for payments made after December 31, 2001, where the payment does not exceed $5 000, and 21% where the payment exceeds this amount.

❑ Bonuses and retroactive increases

Under the current tax regulations, where a payment of a bonus or a retroactive increase is made to an employee whose estimated annual pay, including the bonus or retroactive increase, does not exceed $9 500, the employer must deduct 10% therefrom. However, where the employee's estimated annual pay exceeds $9 500, the employer must determine the amount of the required income tax deduction according to the rules set out in the tax regulations.

Given the changes to the tax table, the above deduction rate of 10% will be reduced to 9% for bonuses and retroactive increases paid after April 30, 2000. In addition, the amount of annual pay that determines how the deduction rate is calculated will be raised from $9 500 to $9 750 for payments made after April 30, 2000 but before January 1, 2001.

Furthermore, to take into account the increase in the flat amount available under the simplified tax system, the tax regulations will be amended so that the income threshold that determines how the deduction rate is calculated for payments made during a given taxation year beyond 2000 is the amount obtained by applying the formula (A x B) ÷ C.

Where:

— "A" is the basic amount available under the simplified tax system for the year prior to the given taxation year;

— "B" is the rate used to convert recognized amounts to non-refundable tax credits for the given taxation year;

— "C" is the tax rate, for the given taxation year, applied to the first taxable income bracket.

However, where the amount thus obtained is not a multiple of $50, it will be rounded off to the nearest multiple of $50, or, where it is halfway between two such multiples, rounded down to the nearest multiple of $50.

❑ Remuneration of self-employed fishers

Under the current regulations, a person who engages in fishing other than under an employment contract may elect to have income tax deducted from his remuneration. Where a self-employed fisher chooses this option, any person who remunerates this fisher must deduct 20% from the payment.

To take the announced changes to the tax table into account, the deduction rate will be lowered to:

— 19% for payments made after April 30, 2000 but before January 1, 2001;

— 18% for payments made after December 31, 2000 but before January 1, 2002;

— 17% for payments made after December 31, 2001.

1.1.5 Consequential amendments

❑ Alternative minimum tax

To bring it in line with the changes made to the tax table, the alternative minimum tax rate, which is currently 23%, will be reduced to 22% in the 2000 taxation year, to 21.5% in the 2001 taxation year, and to 21% effective the 2002 taxation year.

❑ Tax payable by an intervivos trust

Under the current tax legislation, the tax payable by an intervivos trust other than a mutual fund trust is the amount payable on its taxable income for the taxation year, calculated according to the current personal income tax table, or 23% of his taxable income for the year, whichever is higher.

The tax payable by a mutual fund trust for a given taxation year is the amount payable on a modified taxable income for the year, calculated by applying the personal income tax table, or 23% of the modified taxable income, whichever is higher.

In order to bring this tax treatment in line with the new tax table, the applied rate of 23% will be reduced, in each of the above cases, to 22% in the 2000 taxation year, to 21.5% in the 2001 taxation year, and to 21% effective the 2002 taxation year.

1.2 Increase in refundable tax credit for child care expenses

Generally speaking, child care expenses paid to enable a taxpayer or another supporting person of a child (usually the taxpayer's spouse) to work or study can give entitlement to a refundable tax credit for child care expenses.

The amount of this tax credit is calculated by applying the rate corresponding to a taxpayer's family income for the year to the taxpayer's qualifying child care expenses for a taxation year. At present, this rate is based on a table with 23 income brackets and can vary from 75% to 26%.

In order to encourage workers with children to join the work force and remain on the labour market, a new table will be used, beginning in the 2000 taxation year, to establish the rate to be applied to a taxpayer's qualifying child care expenses for a given year.

According to this table, the applicable rate will be maintained at 75% as long as family income for the year does not exceed $27 000. The rate will then decrease by one percentage point for every $1000 in income as long as family income does not exceed $75 000. In cases where family income is higher than $75 000, the applicable rate will be equal to 26%.

The following table gives the changes that will be made to the table of rates used to calculate the refundable child care tax credit.

TABLE 1.3

RATES FOR THE REFUNDABLE TAX CREDIT FOR CHILD CARE EXPENSES

Family income		Tax credit rate			Family income		Tax credit rate		
Over	Up to	Before Budget	After Budget	Increase	Over	Up to	Before Budget	After Budget	Increase
—	$27 000	75%	75%	0%	$51 000	$52 000	40%	50%	10%
$27 000	$28 000	70%	74%	4%	$52 000	$53 000	40%	49%	9%
$28 000	$29 000	65%	73%	8%	$53 000	$54 000	40%	48%	8%
$29 000	$30 000	60%	72%	12%	$54 000	$55 000	40%	47%	7%
$30 000	$31 000	55%	71%	16%	$55 000	$56 000	40%	46%	6%
$31 000	$32 000	51%	70%	19%	$56 000	$57 000	40%	45%	5%
$32 000	$33 000	47%	69%	22%	$57 000	$58 000	40%	44%	4%
$33 000	$34 000	44%	68%	24%	$58 000	$59 000	40%	43%	3%
$34 000	$35 000	44%	67%	23%	$59 000	$60 000	40%	42%	2%
$35 000	$36 000	44%	66%	22%	$60 000	$61 000	39%	41%	2%
$36 000	$37 000	40%	65%	25%	$61 000	$62 000	38%	40%	2%
$37 000	$38 000	40%	64%	24%	$62 000	$63 000	37%	39%	2%
$38 000	$39 000	40%	63%	23%	$63 000	$64 000	36%	38%	2%
$39 000	$40 000	40%	62%	22%	$64 000	$65 000	35%	37%	2%
$40 000	$41 000	40%	61%	21%	$65 000	$66 000	34%	36%	2%
$41 000	$42 000	40%	60%	20%	$66 000	$67 000	33%	35%	2%
$42 000	$43 000	40%	59%	19%	$67 000	$68 000	32%	34%	2%
$43 000	$44 000	40%	58%	18%	$68 000	$69 000	31%	33%	2%
$44 000	$45 000	40%	57%	17%	$69 000	$70 000	30%	32%	2%
$45 000	$46 000	40%	56%	16%	$70 000	$71 000	29%	31%	2%
$46 000	$47 000	40%	55%	15%	$71 000	$72 000	28%	30%	2%
$47 000	$48 000	40%	54%	14%	$72 000	$73 000	28%	29%	1%
$48 000	$49 000	40%	53%	13%	$73 000	$74 000	27%	28%	1%
$49 000	$50 000	40%	52%	12%	$74 000	$75 000	26%	27%	1%
$50 000	$51 000	40%	51%	11%	$75 000	—	26%	26%	0%

1.3 Improved tax system for self-employed workers

The *Act respecting the Québec Pension Plan* provides for the payment of a contribution in respect of the pensionable salary or wage received by an employee and the pensionable self-employed earnings of a worker. This contribution is shared equally by the employee (employee's contribution) and his employer (employer's contribution) in the case of a pensionable salary or wage, and assumed in its entirety by the worker in the case of pensionable self-employed earnings.

Under existing tax legislation, the employee's contribution as well as the contribution a worker must pay in respect of his pensionable self-employed earnings give entitlement to a non-refundable tax credit and do not reduce the income used to calculate tax credits or various government benefits that are reduced on the basis of income, or contributions payable by an individual under the *Act respecting the Régie de l'assurance-maladie du Québec*. The employer's contribution can be deducted in calculating business income, however, and reduces the income used to calculate the various tax credits, benefits and contributions mentioned above if the employer is an individual.

Thus the tax treatment of that part of the contribution paid by a self-employed worker that would correspond to the employer's contribution if the pensionable self-employed earnings had been a pensionable salary or wage and the worker had been an employee and his own employer, is different from the treatment of an employer's contribution.

Moreover, since 1998, taxpayers who benefit little if at all from tax expenditures can opt for the simplified tax system. Essentially, this system replaces a large number of deductions and non-refundable tax credits by a flat amount. An individual who opts for the simplified tax system can also reduce his income tax by an amount corresponding to the amount obtained by applying to the flat amount the rate used to calculate most of the tax credits it replaces.

In opting for the simplified tax system, an individual gives up the non-refundable tax credit for contributions he paid into the Québec Pension Plan (QPP) or the Canada Pension Plan (CPP). For the 2000 taxation year, the amount of the contributions giving entitlement to this tax credit can reach $2 660 when they are payable in respect of pensionable self-employed earnings. Since the flat amount granted under the simplified tax system for this year is $2 515, and the rate used to calculate the tax credit for contributions to the QPP or the CPP is the same as that applied to the flat amount, a self-employed worker who has to pay a contribution equal or superior to this amount, in general, derives no advantage from the simplified tax system.

Furthermore, since the difference between the flat amount provided for under the simplified tax system and the maximum contribution to the QPP or the CPP with respect to pensionable self-employed earnings should increase in the next few years, and the number of self-employed workers increases noticeably year by year, a growing number of workers could be excluded from the simplified tax system.

In order to standardize the tax treatment applicable to that part of the contribution paid by a worker in respect of his pensionable self-employed earnings that could be equated with an employer's contribution and the tax treatment applicable to an employer's contribution, and refrain from excluding a growing number of self-employed workers from the simplified tax system, the tax legislation will be amended to convert half of the tax credit granted in respect of amounts payable as contributions on pensionable self-employed earnings to the QPP or the CPP into a deduction in the calculation of income, and to apply this new deduction as well to the calculation of income under the simplified tax system and to the income used to determine the 1% contribution to the Health Services Fund payable by individuals.

More specifically, the tax credit now granted to an individual for a given taxation year with respect to amounts he must pay for the year in contributions to the QPP or the CPP on his pensionable self-employed earnings will henceforth be granted for only 50% of these amounts, and the new deduction granted for that year in the calculation of his income will also equal 50% of these amounts.

For greater clarification, it is understood that the income used to calculate refundable and non-refundable tax credits that can be reduced as a function of income, or in calculating family allowances, the premium payable under the Québec prescription drug insurance plan or real estate tax refund, and the net income used to calculate the basic amount of the Parental Wage Assistance benefit (PWA), will also be determined using this new deduction.

These amendments will apply beginning in the 2000 taxation year.

1.4 Improved refundable tax credit for adults housing their parents

At present, a taxpayer who lodges a qualified parent may, under certain conditions, benefit from a refundable tax credit of $550 that is not reduced in function of the parent's income.

For a taxpayer to be entitled to this tax credit, the parent housed must be 70 year old or over, or at least 60 years old and afflicted with a severe and prolonged mental or physical impairment. Furthermore, this parent must live with the taxpayer for at least 365 consecutive days, at least 183 of which were in the year for which the tax credit is claimed. More flexible conditions have been provided for cases where the parent housed has a severe and prolonged mental or physical impairment.

In applying this tax credit, the expressions "qualified parent" includes the father, the mother, the grandfather and the grandmother of the taxpayer or the taxpayer's spouse and any other ascendant in the direct line.

In order to better acknowledge the social value of the gesture made by a taxpayer who houses an elderly person whose niece, nephew, grand-niece or grand-nephew he or his spouse is, the definition of the expression "qualified parent" will be amended to include an uncle, aunt, great-uncle or great-aunt of the taxpayer or the taxpayer's spouse.

For greater clarification, the definition of "uncle" and "great-uncle" shall include the spouse of an aunt or great-aunt, and the definition of "aunt" and "great-aunt" shall include the spouse of an uncle or great-uncle.

This change will apply beginning in the 2000 taxation year.

1.5 Improvement in the tax treatment of gifts

In general, gifts made to certain bodies, especially registered charitable organizations or the government, entitle the donor, in the case of an individual, to a non-refundable tax credit equal to 23%[1] of the amount of the gift or of the fair market value of a gift in kind. However, when the donor is a corporation, such a gift gives entitlement to a deduction in the calculation of taxable income.

When a donor cannot take full advantage of such a tax benefit during the taxation year in which a gift is made because, in particular, of the limits on his income which determine the maximum amount of the gifts that can generate such a tax benefit, the unused part of the gift can be carried forward over the next five taxation years and, when the donor dies during the year in which the gift was made, to the previous year.

1.5.1 Improvement in the tax credit for gifts

In order to further encourage individuals to make large gifts, the tax legislation will be amended so that, in calculating the tax credit for gifts granted an individual, beginning in the 2000 taxation year, a higher tax credit rate will be used for that part of the amount taken into consideration that exceeds $2 000.

Therefore, two rates will be used henceforth in calculating the tax credit for gifts for a given taxation year. These rates will correspond, in the case of the first $2 000 taken into consideration, to the rate applicable for the year to the conversion into non-refundable tax credits of the recognized amounts and, for the remainder, to the maximum marginal rate applicable for the year for the purposes of calculating personal income tax.

The following table shows the rates that will be applicable, beginning in the 2000 taxation year, for the purposes of calculating the tax credit for gifts.

TABLE 1.4

RATES USED TO CALCULATE THE TAX CREDIT FOR GIFTS

	Taxation year		
	2000	**2001**	**As of 2002**
First $2 000	22%	21.5%	21%
Amount in excess of $2 000	25%	25%	24%

1 This is the rate that was in force before the changes made in this Budget Speech to the rate of conversion of recognized amounts into non-refundable tax credits.

1.5.2 Increase in the tax benefit for gifts of works of art

In order to encourage gifts of works of art to Québec museums, the tax legislation will be amended so that the amount in respect of such a gift that is taken into consideration in the calculation of the tax credit or the deduction for gifts, depending on the case, is increased by 25%.

For the application of this measure, the expression “Québec museum” refers to any museum located in Québec and any other institution that, at the time of the gift, was certified as a museum institution by the Minister of Culture and Communications.

More specifically, the amount used to calculate the tax credit or the deduction for gifts granted in respect of the donation of a work of art to a Québec museum will henceforth be equal to the total amount of the fair market value of the work of art, or to the amount that is deemed to be the fair market value for the purposes of the calculation, plus 25% of that amount.

For example, if the work of art donated was an immovable property belonging to the taxpayer, the fair market value of which was greater than the adjusted cost base to him of the property, and he designated an amount lower that this fair market value, but not lower than the adjusted cost base as being the fair market value of the property to be used in calculating the tax credit or the deduction granted with respect to the gift, the calculation will be based on an amount equal to the total amount designate for the work of art plus 25% of that amount.

This change will apply to gifts of works of art made to a Québec museum after the day of the Budget Speech.

1.5.3 Preferential tax treatment for gifts of publicly traded securities

In general, when a taxpayer makes a gift in kind, he is deemed to have disposed of the property concerned at its fair market value and can therefore make a capital gain, part of which must be included in the calculation of his income.

This tax treatment could discourage taxpayers from making gifts of certain property, especially when the property has acquired considerable value since its acquisition. Existing tax legislation provides for various tax incentives or tax relief to encourage gifts of such property.

In order to encourage charitable gifts in the form of certain securities, the tax legislation will be amended so that the part of the capital gain a donor must include in the calculation of his income as a result of the donation of such securities to a qualified donee other than a private foundation, will be limited to 33⅓% of the gain made on that occasion.

More specifically, to give entitlement to preferential tax treatment, the object of the gift must be a share, a debt obligation or a right listed on a Canadian or foreign stock exchange recognized by tax legislation, a share of the capital stock of a mutual fund corporation, a unit of a mutual fund trust, an interest in a related segregated fund trust or a prescribed debt obligation, i.e., generally, debt obligation whose market value is easily determined, such as those issued by the government.

This change will apply with respect to charitable gifts made after the day of the Budget Speech and before January 1, 2002.

1.6 Improvement in the tax treatment applicable to child care expenses paid while seeking employment

Generally speaking, parents who are actively looking for a job cannot do so without incurring child care expenses.

At present, looking for work is not recognized by the tax legislation as child care expenses that give entitlement to a refundable tax credit.

However, some taxpayers can obtain financial assistance for child care expenses if they participate in a government program set up to help them integrate or reintegrate the labour market. This assistance is generally paid in the form of a child care expenses refund, but it is not available to all the participants in such a program since it is usually granted on the basis of income. Those who do benefit from it, however, must include the assistance they receive in the calculation of their income.

Changes will be made to the tax legislation to better recognize the costs incurred by parents actively seeking employment.

1.6.1 Non-taxation of financial assistance under government employment assistance programs

Under existing rules, a taxpayer must include in the calculation of his income the financial assistance he receives under a program set up by the Canada Employment Insurance Commission (Commission) under Part II of the *Employment Insurance Act* or a similar program established, in particular, by a government and that is the subject of an agreement with the Commission.

The same is true for any amount received by a taxpayer as social assistance based on a means, needs or income test. However, unless it is received under the *Act respecting income support, employment assistance and social solidarity* or constitutes a similar payment made under a provincial statute, this social assistance payment can be the object of a deduction in the calculation of taxable income.

These rules are such that a taxpayer is obliged to include in the calculation of his income the financial assistance with respect to child care expenses received under an active employment measure created by Emploi-Québec or the Commission, without for that reason benefiting from an equivalent deduction in the calculation of his taxable income.

Before the legislative framework governing last resort benefits was changed, the child care expense refund given a taxpayer benefiting from a temporary measure to support employment, training or community service was not included in the calculation of his income.

With a view to maintaining the non-taxable character of this type of assistance in similar circumstances, the tax legislation will be amended to exclude from the calculation of income any amount attributable to child care expenses and received as:

— a social assistance benefit based on a means, needs or income test under Title 1 of the *Act respecting income support, employment assistance and social solidarity* or any similar payment made under a provincial statute;

— financial assistance under a program set up by the Commission under Part II of the *Employment Insurance* Act or a similar program set up, in particular, by a government and that is the subject of an agreement with the Commission.

The financial assistance with respect to child care expenses granted a taxpayer under an active employment measure set up by Emploi-Québec will not be taken into consideration in determining the taxpayer's income.

These changes will apply beginning in the 2000 taxation year.

1.6.2 Tax assistance for parents who do not benefit from government assistance

In general, child care expenses only give entitlement to a refundable tax credit if they were incurred to enable one of the parents to earn employment or business income. Therefore, this tax credit is based on earned income, which is made up essentially of various forms of work income.

Earned income is used to determine the amount of the child care expenses that qualify for the tax credit. In fact, this amount is limited, except in certain circumstances, to the lower of the incomes earned by the parents.

These rules prevent a taxpayer who does not earn any income because he is trying to reintegrate the labour market to take advantage of the refundable tax credit for child care expenses, even though he has to pay those expenses while actively seeking employment.

In order to help taxpayers who are trying to find a job and who cannot benefit from government assistance with respect to their child care expenses during that time, either in the form of a reduced parental contribution or an amount granted under an employment assistance program, changes will be made to the rules governing the refundable tax credit for child care expenses.

More particularly, the tax legislation will be amended to add to the definition of "child care expenses" expenses incurred to allow a taxpayer to actively seek employment, and to include in "earned income" the benefits received under Part I, VIII or VIII.1 of the *Employment Insurance Act.*

These changes will apply beginning in the 2000 taxation year.

1.7 Improvement in tax assistance for infertile couples

Québec couples who have fertility problems are faced with high costs for international adoption or medical treatments.

At present, these couples can obtain tax relief through a refundable tax credit for adoption expenses or tax credits for medical expenses or for expenses related to medical care.

However, the tax assistance Québec gives couples who chose to undergo medical treatment for infertility is generally less generous than that given couples who opt for adoption.

In order to more fully recognize the costs borne by infertile couples who wish to start a family, certain changes will be made to the tax legislation.

1.7.1 Introduction of a refundable tax credit for the treatment of infertility

In general, the costs paid by taxpayers who resort to artificial insemination or *in vitro* fertilization in the hopes of conceiving can be taken into consideration in calculating refundable and non-refundable tax credits for medical expenses and, if applicable, the non-refundable tax credit for expenses related to medical care.

These costs include, in particular, amounts paid to a physician or a licensed private hospital and amounts paid for medication as recorded by a pharmacist.

Beginning in the 2000 taxation year, the costs associated with artificial insemination and *in vitro* fertilization that can now be taken into consideration in calculating these various tax credits will no longer qualify but, to the extent that they were not and cannot be reimbursed, will instead be eligible for the new refundable tax credit for the treatment of infertility.

This refundable tax credit will be granted, for a given taxation year, to an individual who resides in Québec at the end of December 31 of that year, and will be equal to 25% of all the eligible expenses that were paid during the year by the individual, or by his spouse at the time of the payment, in order to enable the individual to become a parent.

The amount of the expenses that qualify for this tax credit will be subject, for a given taxation year, to a $15 000 ceiling, allowing an individual to receive maximum assistance of $3 750 a year with respect to artificial insemination and *in vitro* fertilization.

When more than one person is entitled to the refundable tax credit for the treatment of infertility, each one must state in his income tax return the part of the tax credit he intends to claim. However, this division must not result in a higher total amount than would have been received if a single person had been entitled to the tax credit.

Therefore, this new tax credit will enable infertile couples who opt for one of the two main treatments for infertility, i.e. artificial insemination and *in vitro* fertilization, to benefit from greater tax assistance.

1.7.2 Increase in the refundable tax credit for adoption expenses

At present, a taxpayer who adopts a child benefits from a refundable tax credit equal to 20% of the eligible adoption expenses paid by himself or his spouse, once the adoption process is complete. The amount of the adoption expenses that qualify for this tax credit is limited to $15 000, however, enabling a taxpayer to obtain maximum tax assistance of $3 000 for the adoption of a child.

In order to offer infertile couples comparable tax assistance, whether they choose a medical solution or adoption to enable them to become parents, the tax credit rate for adoption expenses will go up from 20% to 25%, thus increasing the maximum amount of the tax credit from $3 000 to $3 750.

This increase, which will benefit about 1 000 Québec households a year, will apply beginning in the 2000 taxation year with respect to final adoption judgments handed down after December 31, 1999 or, if applicable, certificates registering adoptions issued by the clerk of the Court of Québec after that date.

1.8 Introduction of a refundable tax credit for top-level athletes

Participation in sports competitions involves expenses associated mainly with training, participation *per se* and the purchase, rental and maintenance of the equipment required for the sport. This financial investment is particularly high for top-level athletes who require more highly qualified trainers, more specialized training venues and higher-performance equipment and who compete in a greater number of national and international events.

Generally speaking, even taking into account the assistance given them by governments and sports organizations, these athletes cannot easily shoulder all the expenses attributable to their sports careers, which may lead them to give those careers up.

In order to contribute to the development of sports in Québec and to better support these athletes in their pursuit of excellence in sports, a refundable tax credit will be introduced for top-level athletes.

❑ Top-level athletes

For the application of this new tax credit, athletes recognized by the Secrétariat au loisir et au sport as belonging to the "Excellence", "Élite" or "Relève" performance level will be considered top-level. In general, the recognition of an athlete as belonging to one or another of these levels of performance, which bring together the best athletes in Québec, will be based on the recommendation of the Québec sport federation to which the athlete belongs, established according to the standards set by the Secrétariat au loisir et au sport for the maximum number of athletes that can be recognized in each of these levels of performance.

❑ Conditions of eligibility

To benefit, for a given taxation year, from this tax credit, which can amount to $4 000 if the athlete belongs to the Excellence or Élite level, and $2 000 if he is at the Relève level, an individual must reside in Québec at the end of December 31 of that year and attach to his tax return for the year the attestation issued by the Secrétariat au loisir et au sport recognizing him as a top-level athlete.

This attestation states the number of days of the year during which the individual was recognized as belonging to a given level of performance in a given type of sport (individual or team). However, for the purposes of the attestation, an athlete cannot be recognized for more than one level of performance or type of sport on the same day.

❑ Method of calculating the tax credit

The amount of the tax credit for a given taxation year will depend on the level of performance recognized for an individual for that year, the type of sport he practiced during the year and the number of days of the year to which the recognition applies. Thus, for each combination of level of performance and type of sport indicated in the attestation issued for the year to that individual, the tax credit granted for that year will be equal to the proportion of the amount given in the following table for that combination represented by the relation between the number of days of the year indicated in the attestation for that combination and the number of days in the calendar year concerned.

TABLE 1.5

MAXIMUM AMOUNT OF THE REFUNDABLE TAX CREDIT FOR TOP-LEVEL ATHLETES
(in dollars)

	Excellence	Élite	Relève
Individual sport	4 000	4 000	2 000
Team sport	2 000	2 000	1 000

For example, if the attestation issued to an individual for the 2000 taxation year states that he was recognized as a Relève level athlete in an individual sport for 166 days of the year, the tax credit will be $907.[2] If it also states that he was recognized as an Élite athlete in an individual sport for the remaining 200 days of that year, the tax credit will amount to $3 093.[3]

For further clarification, an individual will not be obliged to include in the calculation of his income the refundable tax credit he receives as a top-level athlete.

❑ Date of application

This measure will apply beginning in the 2000 taxation year.

2 Corresponding to $2 000 x 166 days ÷ 366 days.

3 Corresponding to ($2 000 x 166 days ÷ 366 days) + ($4 000 x 200 days ÷ 366 days).

1.9 Improvement of the tax treatment applicable to bursaries and prizes

Under existing rules, a $500 tax exemption is applicable to all the amounts a taxpayer receives as scholarships, fellowships, bursaries and prizes for achievement in a field of endeavour in a given taxation year.

In some cases, the tax exemption can exceed $500 if the expenses incurred by the taxpayer to fulfill the conditions for obtaining the bursary or prize are higher than that amount and the bursary or prize must be used to produce a literary, dramatic, musical or artistic work.

Furthermore, some bursaries and prizes are completely exempt of tax. Briefly, these are prizes recognized by the general public and awarded for a meritorious achievement, and certain bursaries paid to students with a major functional impairment or students from northern villages.

1.9.1 Non-taxation of scholarships

Only a few very specific bursaries and prizes are non-taxable under the existing rules. In order to increase the financial incentive for the best students to pursue higher education, and to prepare a sufficient number of new university researchers, the tax legislation will be amended so that various other bursaries and prizes received by taxpayers continuing their university education will be non-taxable.

Thus, for a given taxation year, scholarships, bursaries and prizes for a remarkable achievement received by a taxpayer during the year will be excluded from the calculation of a taxpayer's income if he is taking an undergraduate degree or courses leading to a master's or a doctoral degree, except in the case of bursaries and prizes granted under the *Act respecting financial assistance for education expenses,* the *Canada Student Financial Assistance Act* or any provincial statute governing financial assistance to post-secondary students.

Furthermore, under existing conditions of application of the refundable tax credit for child care expenses, bursaries and prizes included in the calculation of a taxpayer's income for the taxation year are considered to be earned income for that year.

The notion of a taxpayer's earned income serves to determine the amount of the qualifying child care expenses. In fact, except in certain specific circumstances, the amount is limited, in particular, by the earned income of the taxpayer or of the supporting person of a child, whichever is lower.

To avoid reducing the tax assistance granted in the form of a refundable tax credit for child care expenses, the tax legislation will be amended to allow a taxpayer to include in the calculation of his earned income for a taxation year the value of the scholarships and prizes excluded from the calculation of his income for that year.

Moreover, a taxpayer may take advantage of the tax credit for tuition or examination fees with respect to tuition fees paid to a recognized educational institution where he is enrolled in a post-secondary program.

Given certain conditions and restrictions, tuition fees that qualify for this tax credit include ancillary fees paid to a recognized educational institutions to enroll in a post-secondary program. To this end, the fees paid in respect of financial assistance granted students can generally be considered ancillary fees that qualify for the tax credit, to the extent that the taxpayer includes that assistance in the calculation of his income or could have included it if the $500 tax exemption granted under the tax system for bursaries and prizes had been equal to zero.

In order to preserve the nature of the tuition fees that qualify for a tax credit for tuition or examination fees, the tax legislation will be amended so that the fees paid to a recognized educational institution with respect to the financial assistance granted a student, the value of which is excluded from the calculation of his income, will continue to qualify as ancillary fees.

These changes will apply beginning in the 2000 taxation year.

1.9.2 Tax exemption raised from $500 to $3 000

Existing tax legislation grants taxpayers a minimum tax exemption of $500 per taxation year for the total amount received, during the year, in scholarships, fellowships, bursaries, and prizes for remarkable achievements.

To further encourage taxpayers to continue their studies, further their training or develop their skills, this minimum exemption will be increased to $3000 a year.

Furthermore, under the existing rules for the refundable tax credit for child care expenses, only that part of a bursary or prize that exceeds the tax exemption granted for that purpose is included in the calculation of earned income for that tax credit.

Essentially, earned income serves to determine the child care expenses eligible for the tax credit. Except in certain circumstances, this amount is limited to the amount of the earned income of the taxpayer or of the supporting person of a child, whichever is lower.

However, since a taxpayer cannot include in the calculation of his earned income for a taxation year that part of the bursaries and prizes for which he received a tax exemption for that year, he could be prevented from fully benefiting from the tax credit for child care expenses with respect to expenses incurred to enable him to continue studying.

The tax legislation will therefore be amended to enable a taxpayer to include, in the calculation of his earned income for a taxation year, the amount of the tax exemption from which he benefited with respect to the bursaries and prizes he received during that year.

Similarly, a change will be made to the tax legislation so that a taxpayer can include in the calculation of his earned income for a taxation year the entire amount received during that year in the form of a grant for research or similar work, and not only the part of such amount that exceeds the expenses incurred to that end.

These changes will apply beginning in the 2000 taxation year.

1.10 Recognition of secondary school vocational training in applying the tax credit for children in post-secondary studies

Under existing rules, a non-refundable tax credit is granted taxpayers who have as a dependent a child engaged in full-time post-secondary studies. Essentially, this tax credit recognizes that the child has the same financial needs as an adult.

Briefly, this tax credit is based for a given taxation year on an amount of $1 650 for each completed term, without exceeding two, which began in the year and during which the dependent child was in full-time attendance at an eligible educational institution where he was enrolled in a post-secondary program and devoted at least nine hours a week to courses or work required by the program.

However, a taxpayer cannot take advantage of this tax credit if the dependent child is a tax-exempt person. A child is a tax-exempt person if he received assistance, other than assistance granted under the *Act respecting financial assistance for education expenses,* for the program in which he is enrolled or if he enrolls in the program within the framework of an office or employment for which he is paid.

Furthermore, children enrolled in vocational training programs at the secondary level do not usually give entitlement to the tax credit for children in post-secondary studies, since the programs are not college-level programs.

However, in a number of cases, the financial needs of such children are comparable to those of children in college programs. Furthermore, many vocational training programs at the secondary level have been recognized by the Minister of Education as giving entitlement to loans and bursaries under the *Act respecting financial assistance for education expenses*.

Considering that vocational programs at the secondary level have been growing steadily in recent years, and in order to provide tax relief for a greater number of parents supporting children who are continuing their education, some of these programs will henceforth be recognized for the purposes of the tax credit.

More specifically, the tax legislation will be amended to replace the main criteria for this tax credit, i.e. attendance at an eligible educational institution and enrollment in a post-secondary course of study, by criteria related essentially to designated educational institutions and courses of study recognized by the Minister of Education for the application of the *Act respecting financial assistance for education expenses.*

Furthermore, the notion of a tax-exempt person is intended essentially to ensure that the tax credit for children in post-secondary studies is not granted with respect to a child receiving certain types of income during the course of his studies. Since this notion serves the same purpose as the principle according to which this tax credit is reduced as a function of the child's income, it will be withdrawn.

Thus, for a given taxation year, a taxpayer will be able to benefit from a tax credit based on an amount of $1 650 for each completed term, without exceeding two, which began in the year and during which a dependent child was taking courses on a full-time basis:

— in an educational institution located in Québec and designated by the Minister of Education for the application under the *Act respecting financial assistance for education expenses* of the Loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the post-secondary level, where he was enrolled in a course of study recognized by the Minister for that purpose;

— or in an educational institution located outside Québec and so designated by the Minister of Education, where he was enrolled in a course of study at the college or university level or at an equivalent level.

For further clarification, the existing rule applicable to a course of study in which a child is enrolled and for which he must devote at least nine hours a week to courses or to work within the program will be maintained.

These changes will apply beginning in the 2000 taxation year.

1.11 Non-taxation of certain amounts paid to a member of a board of directors or a member of certain committees

Under the existing tax system, the amounts an individual must enter in the calculation of his income from an office or employment include the value of the board, lodging and other benefits he receives and enjoys because of or in the course of the office or employment he holds, as well as the allowances he receives for personal or living expenses or for any other purpose. Thus, since the expenses an individual incurs to travel between his usual place of residence and his place or work are personal expenses for him, except in certain cases provided for in the tax legislation, he must include in the calculation of his income any allowance for these expenses or any reimbursement of them that he receives from his employer.

Therefore, an individual who was elected or appointed as a representative to fill an office with an organization, including a member of the board of directors of a corporation, must generally include in the calculation of his income the amounts he receives from that organization in the form of an allowance or a reimbursement for travelling expenses he incurred in order to attend the meetings of the board or the committee on which he sits. In fact, since in such cases the place where the meeting is held represents the individual's place of work, these expenses are personal expenses for that individual.

The fact that the individual must include these amounts in the calculation of his income usually creates an additional tax burden for that person, despite the fact that, generally speaking, he does not make any financial gain. In addition, since the remuneration received for carrying out the responsibilities of such an office is often minimal, not to say non-existent, such a tax treatment can hamper the recruiting of people to hold such an office, particularly in provincial not-for-profit organizations.

In order to make it easier for individuals to exercise their mandate when elected or appointed as a representative to occupy an office, and to make the tax treatment applied to their remuneration more equitable, the tax legislation will be amended so that an individual who holds such an office in a body that is a corporation, an association or another organization will no longer be obliged to include in the calculation of his income an amount he receives from that body in the form of an allowance for travelling expenses or a reimbursement of such expenses to enable him to attend the meetings of the board or committee on which he sits, to the extent that the amount does not exceed an reasonable amount.

However, to benefit from this exemption, the following conditions must be met:

— the individual must be dealing at arm's length with the body;

— the expenses must not be incurred to travel in the performance of his duties;

— the meeting must be held at a location not less than 80 kilometres from the ordinary place of residence of the individual, in a place that can reasonably be regarded as consistent with the territorial scope of the body's activities when it is a not-for-profit organization, or that is within the local municipal territory or, if applicable, the metropolitan area where the head office or main place of business of the body is located, in all other cases.

This change will apply beginning in the 2000 taxation year. It will also apply to any taxation year of a taxpayer for which the Minister of Revenue may, at the date of the Budget Speech, determine or again determine the income tax payable by that taxpayer for that year, and make an assessment or a new assessment, or establish a supplementary assessment.

2. MEASURES CONCERNING BUSINESSES

2.1 Introduction of a tax holiday for major investment projects

To encourage investment in Québec, the government introduced, in the March 31, 1998 Budget Speech, a mechanism to ensure that, as of July 1, 1999, the tax rates applicable to income, capital and payroll of businesses that undertake major investment projects would remain stable.

The application details of this tax rate guarantee were set out in the ministère des Finances Information Bulletin 98-8, released on December 22, 1998.

Essentially, this guarantee protected taxpayers with whom the government concluded a contract against an increase in the tax rates applicable to the income, capital and payroll of a business carried on pursuant to a major investment project.

To further encourage businesses to undertake major investment projects in Québec, this tax rate guarantee will be replaced by a tax holiday lasting ten years.

❑ Conditions for obtaining the tax holiday

An eligible taxpayer who carries out, after the day of the Budget Speech, a major investment project in Québec may, under certain conditions, benefit from a tax holiday, for all or part of a calendar year. However, the tax holiday will only be granted once an initial eligibility certificate and annual eligibility certificates are issued by the Minister of Finance. In addition, the tax holiday will become effective only if it is apparent that the investment project is indeed a major investment project.

More specifically, the Minister of Finance will issue the initial eligibility certificate only if he can reasonably consider, given the features of the project submitted by the taxpayer, that the project will constitute a major investment project. Application for the certificate must be made before starting the major investment project.

To determine whether, on the date of a taxpayer's application for an initial eligibility certificate, the investment project has already started, the undertakings given by the taxpayer, on that date, in relation to his investment project, will be important elements that will be taken into consideration. However, undertakings relating to market or feasibility studies, on the date of the application, will not, of themselves, constitute an item on the basis of which it can be concluded that the investment project had already started on that date and that, by the same token, the project cannot qualify.

Subsequently, if an initial eligibility certificate is issued for the taxpayer's project, the taxpayer will have to apply, before the 1st of October preceding each calendar year for which he may benefit from the tax holiday regarding the project, for an annual eligibility certificate regarding the project for such calendar year. The Minister of Finance shall issue such an annual eligibility certificate, for a calendar year, taking into account the compliance with the eligibility criteria for prior calendar years and taking into consideration the forecasts submitted by the taxpayer regarding the project for such calendar year. Accordingly, the issuing of the annual eligibility certificate will effectively confirm that the taxpayer can benefit from, regarding the project, the tax holiday for such calendar year or part of such calendar year, as the case may be.

However, a taxpayer may apply for an annual eligibility certificate for the coming year after the 30th of September of the current year. In that case, the taxpayer must assume the consequences that may result if the annual certificate is issued after the beginning of the calendar year in question, in particular the payment of the items covered by the tax holiday or the payment, if applicable, of interest and penalties relating to these items.

Accordingly, a taxpayer planning to carry out an investment project that may qualify as a major investment project, and who wishes to benefit from a tax holiday for the project, must submit his project in writing to the Minister of Finance, together with the documents needed to analyze it, at the following address:

Ministère des Finances
Direction générale des politiques de taxation
Direction des régimes fiscaux et des mesures structurantes
applicables aux entreprises
12, rue Saint-Louis
Québec (Québec) G1R 5L3

Once the project has been studied, the Minister of Finance will advise the taxpayer concerned of his decision as to whether or not the tax holiday has been granted for the project the taxpayer submitted. If the Minister of Finance agrees to grant the tax holiday, he will issue an initial eligibility certificate to the taxpayer for the major investment project.

❑ Eligible taxpayers

In general, a corporation that carries on a business in Québec, directly or through a partnership, may, under certain conditions, benefit from the tax holiday, for all or part of a calendar year, in relation to the portion of the tax holiday covering income tax and the tax on capital.

In addition, an employer which carries on a business in Québec and is not tax-exempt may, under certain conditions, obtain the tax holiday, for a calendar year, for the portion of the tax holiday covering the Health Services Fund (HSF) contribution.

"Public" entities may not obtain this tax holiday, namely employers which are:

— the government of Canada or of a province;

— a Canadian municipality;

— a body that is an agent of the government of Canada, of a province or of a Canadian municipality;

— a Canadian public body carrying out government functions and which, as such, is exempt from tax;

— a corporation or body covered by one of paragrahs 149(1)d) to d.6) of the *Income Tax Act* (Statutes of Canada).[4]

❑ Major investment projects

The tax holiday covers investment projects that give rise to significant job creation in Québec. This is the most important item used in determining whether an investment project qualifies as a major investment project. For this purpose, the increase in payroll will be the parameter used to decide whether an investment project gives rise to significant job creation.

Accordingly, for the purposes of this tax holiday, two types of investment projects may qualify as "major investment projects", namely:

1. a project that gives rise to an increase in payroll of at least $4 million and involving an investment of at least $300 million;

2. an investment project that gives rise to an increase in payroll of at least $15 million.

In addition, such projects must be carried out in eligible activity sectors and within the stipulated time periods.

Lastly, projects that are underway on the date of the Budget Speech cannot qualify as a major investment project. To this end, the criteria indicated above to decide whether or not a project is underway on the date of the application for an initial eligibility certificate will be used.

4 The incorporation into Québec's tax legislation of the measures contained in these paragraphs was announced in the March 31, 1998 Budget Speech.

- **Concept of investment**

In general, investments considered for the purposes of granting the tax holiday are all the capital expenditures incurred, during the period when the investment project is carried out, to obtain goods or services to establish a business in Québec or to increase, improve or modernize the production of such a business.

More specifically, such expenditures must be directly related to the carrying out of the investment project in Québec.

In addition, expenditures relating to the acquisition of a business already carried on in Québec and those relating to the purchase or the use of land will not be considered for this purpose.

- **Concept of "payroll"**

In general, the "payroll" of taxpayers involved in carrying out a major investment project, for a calendar year, means all the wages paid, during such calendar year, to the employees of the taxpayers carrying out the project, with the exception, as the case may be, of wages paid during the period the investment project is carried out, to employees whose duties consist in building, expanding, improving or modernizing the site where the major investment project will be carried out.

More specifically, only wages paid to employees of establishments located in Québec will be considered. In addition, only employees working in the sector of activity in which the major investment project is carried out, or in a related sector of activity, will be considered.

To determine whether the payroll has increased, during a calendar year, the payroll of the taxpayers involved in carrying out the investment project, for such year, will be compared with the payroll of such taxpayers for the calendar year preceding that during which the investment project began to be carried out.

However, the wages paid by a taxpayer involved in carrying out a major investment project, following the taxpayer's acquisition of a business already carried on in Québec, and which can reasonably be considered attributable to the activities carried out, before its acquisition, in the course of such business, will not be included in the payroll of such taxpayer, for a calendar year. Consequently, these wages will not contribute to achieving the minimum threshold increase in payroll applicable to the taxpayer for his investment project to qualify as a major investment project.

The payroll, for a calendar year, will be determined on a consolidated basis, i.e., considering all taxpayers associated among themselves at a given time of such calendar year.

More specifically, the status of "associated taxpayers", for a calendar year, will be determined on a Québec basis, i.e., by considering all taxpayers that have an establishment in Québec and are associated among themselves, at a given time during such calendar year, as well as all the wages paid to employees of establishments located in Québec of such taxpayers, during such calendar year.

Three rules will be applied to determine whether taxpayers are associated among themselves at a given time of a calendar year:

— taxpayers that would be corporations associated with each other at such time for the purposes of the *Taxation Act*, if the rules in this regard applied only on a Québec basis, will be considered to be associated at such time for the purposes of the tax holiday;

— a taxpayer who is an individual other than a trust will be considered a corporation all of whose voting shares belong to the individual at the given time;

— a taxpayer which is a partnership or a trust will be considered a corporation all of whose voting shares belong to the members of the partnership or to the income beneficiaries of the trust at the given time, 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 calendar year including the given time.

❑ Eligible activity sectors

In general, to qualify as a "major investment project", an investment project must be carried out in the primary sector, the manufacturing sector or the propulsive service sector, excluding financial services, placement offices and accounting services.

❑ Purpose of the tax holiday

Essentially, the tax holiday will enable eligible taxpayers that carry out a major investment project in Québec to benefit, for a period of ten years beginning on the starting date of the operation of the business relating to the major investment project, from an exemption from income tax, an exemption from the tax on capital and an exemption from employer contributions to the HSF relating to the business carried on following the completion of the major investment project.

For this purpose, the starting date of the operation of the business relating to the major investment project will be the date indicated by the Minister of Finance in the first annual eligibility certificate issued for the major investment project.

In addition, to maintain a direct link between the purpose of the tax holiday and the reason for which it is granted, namely the undertaking of a major investment project by a taxpayer, the tax holiday will be granted for an investment project carried out by the taxpayer, i.e., more specifically, as if the activity carried on after the project is completed constitutes the carrying on of a separate business (hereunder referred to as the separate business) by a separate person.

- **Exemptions from income tax and the tax on capital**

A corporation may benefit, for the ten-year period beginning on the starting date of the operation of the business relating to the major investment project, from an exemption from income tax and an exemption from the tax on capital. These exemptions will take the form of a deduction in calculating taxable income, as far as income tax is concerned, and of a deduction in calculating paid-up capital, in regard to the tax on capital.

The deduction in calculating taxable income will be based on the income the corporation earns from the separate business, i.e. the income earned from the activity carried on following the completion by the corporation of the major investment project.

Regarding the deduction in calculating paid-up capital, paid-up capital will correspond to the amount of paid-up capital calculated using the balance sheet of the separate business.

Technical rules will apply in calculating the deduction a corporation may claim in calculating its taxable income. The purpose of these rules is to ensure that the deduction thus allowed a corporation truly corresponds to the income earned from the separate business for the period of the tax holiday, without affecting the tax elections a corporation may otherwise make in filing its income tax return.

More specifically, the deduction a corporation may claim in calculating its taxable income will be equal to the “income earned from the major investment project”, calculated as if the taxpayer that carries on the separate business had claimed the total amount of discretionary deductions, including the deduction for depreciation and the deduction relating to an intangible asset, attributable to the activity carried on following the completion of the major investment project.

For this purpose, for the period between the starting date of the project and the starting date of the operation of the business relating to the major investment project, following the completion of such project, the taxpayer will be deemed not to have claimed the deduction for depreciation, as well as the deduction relating to an intangible asset.

In this way, the tax value of such assets acquired during the period preceding the beginning of the operation of the business relating to the major investment project and during which the corporation does not benefit from the tax holiday, may not, for the purposes of calculating the deduction a corporation may claim in calculating its taxable income, in relation to its major investment project, be reduced by the deduction for depreciaion or the deduction relating to an intangible asset which the corporation could otherwise have claimed, during such period, in calculating its income.

In addition, the deduction a corporation may claim in calculating its taxable income will be reduced by the "prior taxation years' losses attributable to the major investment project", provided these have not already been considered for this purpose for a prior taxation year. The "prior taxation years' losses attributable to the major investment project" will be calculated for the same period and according to the same rules as those used to determine the "income earned from the major investment project".

Thus, the deduction a corporation can claim in calculating its taxable income will actually correspond to the income earned from the separate business for the period of the tax holiday, without affecting the tax elections the corporation may otherwise make in the course of filing its income tax return.

If the major investment project is carried out directly by a corporation, the amount of the applicable deductions it may claim, for a taxation year, regarding a calendar year or part of a calendar year included in such taxation year, in relation to such major investment project, will be calculated in proportion to the number of days of the corporation's taxation year included in the calendar year concerned regarding which such deductions apply, compared to the number of days of such taxation year.

In the specific case where the major investment project is carried out by a partnership, the amount of applicable deductions a corporation which is a member of such partnership at the end of a fiscal period may claim, for a taxation year, regarding such major investment project, will be calculated in proportion to the number of days of the fiscal period of the partnership regarding which such deductions apply, for a calendar year or part of a calendar year included in such fiscal period, compared to the number of days of such fiscal period.

- **Exemption from employer contributions to the HSF**

In the case of the exemption from employer contributions to the HSF relating to the business carried on following the completion of the major investment project, such exemption will apply regarding the wages paid for a pay period ending during the ten-year tax holiday period. These wages will include the wages considered in calculating the amount of the increase in payroll, described above.

❑ Achieving and maintaining minimum thresholds

Before a taxpayer can effectively benefit from the tax holiday for all or part of the ten-year period, he must achieve and, as the case may be, maintain throughout this period, the minimum thresholds, described above, that qualify an investment project as a major investment project.

- **Determining whether or not minimum thresholds have been achieved**

Accordingly, regarding the threshold of an increase in payroll of at least $4 million or at least $15 million, as the case may be, whether or not this threshold is achieved will be determined for each calendar year, in accordance with the procedures described above.

As for the investment threshold of at least $300 million, whether or not this threshold is achieved will be determined by considering all the expenditures incurred in relation to the investment project since it began to be carried out.

- **Time period for achieving minimum thresholds**

Furthermore, the minimum thresholds that qualify an investment project as a major investment project must be achieved no later than a given date that depends on the type of project.

Accordingly, in the case of a project that gives rise to an increase in payroll of at least $4 million and involves an investment of at least $300 million, a period of 48 months will be allowed, as of the date the initial eligibility certificate regarding such project is issued.

In the case of an investment project that gives rise to an increase in payroll of at least $15 million, the period will be 36 months.

If the minimum thresholds are not achieved before the expiry of these periods, the tax holiday would then never take effect.

- **Consequences of achieving minimum thresholds**

As mentioned above, the tax holiday will only become effective once the required minimum thresholds are achieved, thus confirming that the investment project for which a tax holiday is granted indeed constitutes a major investment project.

The taxpayer to whom such tax holiday is granted must accordingly continue, for the period preceding the date on which the tax holiday becomes effective, to carry out its tax obligations toward the ministère du Revenu du Québec (MRQ), and pay income tax, the tax on capital and the employer contribution to the HSF.

However, once the required minimum thresholds are achieved, the tax holiday will be retroactive to the starting date of the operation of the business relating to the major investment project, i.e. the date indicated by the Minister of Finance in the first annual eligibility certificate issued regarding such major investment project.

Such taxpayer will be compensated, in this regard, directly by the MRQ, which will be authorized for this purpose, as described in the section "Compensation payable pursuant to the tax holiday" below.

Concerning the period following the date of issue the first annual eligibility certificate for such major investment project is obtained, and not the retroactive effective date, the taxpayer may benefit directly from his tax holiday, by reducing his tax obligations to take the tax holiday into account.

More specifically, a corporation may directly benefit from the portion of the tax holiday covering income tax and the tax on capital, for the portion of a taxation year included in a calendar year regarding which an annual eligibility certificate has been issued by the Minister of Finance, by claiming the applicable deductions in his tax return for such taxation year.

Concerning the portion of the tax holiday covering employer contribution to the HSF, the taxpayer may benefit from it directly regarding the wages paid for any pay period ending after the date of issue of the annual eligibility certificate of the calendar year concerned.

Lastly, when the minimum threshold for the increase in payroll, for a calendar year, is first achieved, the tax holiday will generally be effective for the entire portion of the ten-year period still to run as of such time. However, if such increase in payroll is not maintained, during a given calendar year included in the period covered by the tax holiday, the Minister of Finance may revoke, depending on the circumstances, certain eligibility certificates, according to the criteria indicated to that effect in the section "Revocation of certificates in the event of shortfall" below.

- **Specific case of a project giving rise to an increase in payroll of at least $4 million and involving an investment of at least $300 million**

In the specific case of a project giving rise to an increase in payroll of at least $4 million and involving an investment of at least $300 million, the tax holiday may, in certain circumstances, become effective on the starting date of the operation of the business relating to the major investment project, following the completion of such project, even if the mimimum thresholds indicated above have not been achieved on such date.

In that case, many factors will have to be taken into consideration. Among others, the expenditures incurred at that date, the undertakings made in relation to the completion of the major investment project, such as contracts relating to the completion of the project, as well as the forecast increase in payroll, must enable the Minister of Finance to conclude that the project will meet, barring unforeseen developments, the minimum thresholds before the end of the 48-month time period.

If the required minimum thresholds are not achieved before the expiry of this period, the Minister of Finance may revoke, depending on the circumstances, certain eligibility certificates, according to the criteria indicated to that effect in the section "Revocation of certificates in the event of shortfall" below.

❑ Transfer of the tax holiday

In order not to hamper a taxpayer in conducting his business, the tax holiday granted to a taxpayer, for a major investment project, may be transferred to another taxpayer when the business relating to the investment project for which the tax holiday is granted is henceforth carried on by such other taxpayer.

In such a case, the other taxpayer will continue to benefit from the tax holiday for the portion of the ten-year period still to run on the date of the transfer. However, the approval of the Minister of Finance must be obtained before such a transfer.

More specifically, in calculating his deduction regarding "income earned from a major investment project", the acquirer must take into account all the "prior taxation years' losses attributable to the major investment project", calculated according to the rules indicated above. Accordingly, to obtain the approval of the Minister of Finance concerning the transfer of the tax holiday, the taxpayer wishing to transfer the tax holiday must disclose the relevant information in this regard to the acquirer.

❑ Revocation of certificates in the event of shortfall

The Minister of Finance may, in the event the facts fall short of the information provided by a taxpayer, revoke some or all of the certificates, depending on the size of the shortfalls. Revocations may be as follows:

— withdrawal of one or more annual eligibility certificates. This kind of revocation could apply, for instance, when the Minister of Finance considers that the shortfall between the forecast results of the major investment project and those obtained is too great;

— withdrawal of the initial eligibility certificate, the result of which would be the cancellation of all the certificates issued regarding such investment project. This kind of revocation could apply if the Minister of Finance has reasonable grounds for considering that the taxpayer would not have obtained the initial eligibility certificate enabling him to benefit from the tax holiday regarding his investment project had the true facts been disclosed when the project was presented.

In the case where the Minister of Finance thus revokes an eligibility certificate, the amount of tax benefits a taxpayer has received as a result of such certificate will be recaptured by means of a special tax.

❑ Other application details

A corporation that seeks to benefit from the portion of the tax holiday covering income tax and the tax on capital, for a taxation year, must enclose with its tax return, for such year, in addition to the form prescribed by the MRQ and the copy of its initial eligibility certificate, a copy of all the annual eligibility certificates concerning the taxation year in question. In the specific case of the exemption from the employer contribution to the HSF, for a calendar year, the taxpayer must enclose with the *Summary of Source Deductions and Employer Contributions* a form prescribed by the MRQ as well as a copy of its initial eligibility certificate and the annual eligibility certificate applicable to the calendar year concerned.

To protect the integrity of the tax system, the Minister of Finance will provide the MRQ with the information available to him concerning the taxpayer carrying out a major investment project, to make it easier to check the accuracy of the exemptions claimed by such taxpayer.

In addition, separate financial statements for the business relating to the major investment project for which the tax holiday has been granted must be filed with the MRQ.

❑ Compensation payable pursuant to the tax holiday

For the period between the retroactive effective date of the tax holiday relating to a major investment project and that the first annual eligibility certificate issued in regard to the major investment project is obtained, the amount of the compensation will be determined based on each of the items covered by the tax holiday.

More specifically, the portion of the compensation attributable to income tax, for a year, will be obtained by multiplying the deduction the corporation would have claimed, for such year, by the income tax rate applicable for such year.

The portion of the compensation attributable to the tax on capital, for a year, will be obtained by comparing the amount of the tax on capital that would have been payable by the corporation, for such year, in the absence of the deduction relating to the major investment project, with the tax on capital that would have been payable by the corporation had it claimed such deduction for such year. The difference represents the amount of the compensation attributable to this portion of the tax holiday.

Lastly, the portion of the compensation attributable to the employer contribution to the HSF, for a year, will correspond to the portion of the employer contribution to the HSF paid by the taxpayer, for such year, and attributable to the separate business carried on following the completion of the major investment project.

This calculation will be carried out for the period between the starting date of the operation of the business relating to the major investment project and the date from which the taxpayer can benefit directly from the tax holiday, for each tax base covered by the tax holiday.

More specifically, the calculation will be carried out for each taxation year in the case of income tax or the tax on capital, and for each calendar year in the case of employer contributions to the HSF, included in whole or in part in the period described in the preceding paragraph.

Any amount payable by the MRQ to a taxpayer, in relation to a compensation, will bear interest only as of the 46th day from the date the MRQ receives the claim, at the rate stipulated in section 28 of the *Act respecting the ministère du Revenu* regarding payments for the period in question.

❑ Application date

The Minister of Finance will approve the issue of eligibility certificates regarding major investment projects beginning after the day of the Budget Speech.

2.2 125% accelerated depreciation and exemption from the tax on capital for new investments

Taxpayers who carry on a business in Québec can claim a deduction for depreciation of 100% of the capital cost of certain assets used in Québec, regardless of the half-year rule and the put-in-service rules generally applicable under the tax legislation.

Briefly, the assets that enable a taxpayer to claim this accelerated depreciation deduction are manufacturing or processing equipment, foreign ore processing equipment and universal electronic data processing equipment (computer hardware). Intangible assets, such as a patent, license, permit, know-how or trade secret, acquired as part of a technology transfer, also give rise to this deduction.

These assets must be used mainly to earn business income. In addition, they must begin to be used within a reasonable time after they are acquired and must be used solely in Québec for a minimum period of 730 days following the day they start to be used. Lastly, in the case of manufacturing or processing equipment, foreign ore processing equipment and computer hardware, the assets must be new at the time they are acquired.

In addition, taxpayers who carry on part of their business in Québec and part of it outside Québec can claim an additional deduction equal to 20% of the deduction for depreciation claimed regarding such assets for a taxation year. The amount thus obtained, for a year, is then multiplied by the proportion, for such year, between the business done outside Québec by the taxpayer and the business done in Québec.

In the March 25, 1997 Budget Speech, a supplementary deduction of 25% for depreciation and an exemption from the tax on capital for new investments in some sectors were introduced to encourage investment in Québec. However, these measures were temporary. The March 9, 1999 Budget Speech extended these measures.

Accordingly, taxpayers who acquire assets otherwise eligible for the accelerated depreciation deduction before April 1, 2000, can generally claim a supplementary deduction equal to 25% of the accelerated depreciation deduction claimed for a taxation year, thus bringing the total deduction to 125%. If a taxpayer does part of his business outside Québec during a taxation year, the amount of the supplementary deduction is divided by the proportion of his business done in Québec for such year, so that he derives full benefit from this supplementary deduction.

In addition, the exemption from the tax on capital takes the form of a deduction, in calculating the paid-up capital of a corporation whose rate of tax on capital payable for a taxation year is 0.64%, that depends on the eligible acquisitions costs it incurred regarding an eligible asset.

A corporation can claim this deduction regarding eligible acquisition costs it incurred, in a taxation year, for the taxation year during which these costs are incurred and for the subsequent taxation year.

Briefly, assets eligible for the application of this exemption from the tax on capital are manufacturing or processing equipment, foreign ore processing equipment, computer hardware, buildings used in the course of manufacturing or processing activities, buildings used in the course of foreign ore processing activities as well as the equipment and buildings used in the course of eligible activities relating to the tourism sector.

However, these assets must be acquired by a corporation, or by a partnership, as the case may be, before April 1, 2000, subject to the transition periods stipulated in the tax legislation.

2.2.1 Renewal of the 25% supplementary deduction and the exemption from the tax on capital

To continue to encourage investment in Québec, the 25% supplementary deduction for depreciation and the exemption from the tax on capital will be renewed until March 31, 2005.

Accordingly, the 25% supplementary deduction for depreciation will apply regarding assets otherwise eligible for the accelerated depreciation deduction acquired after March 25, 1997 and before April 1, 2005, unless:

— they are acquired pursuant to a written obligation contracted no later than March 25, 1997; or

— the construction of these assets, by the taxpayer or for him, was underway on March 25, 1997.

In addition, the exemption from the tax on capital will apply regarding such assets acquired by a corporation, or by a partnership, as the case may be:

— after March 25, 1997 and before April 1, 2005, unless:

  – they are acquired pursuant to a written obligation contracted no later than March 25, 1997; or

  – the construction of these assets, by the corporation or partnership, as the case may be, or for either of them, was underway on March 25, 1997;

— after March 31, 2005 and before April 1, 2006:

  – if they are acquired pursuant to a written obligation contracted before April 1, 2005; or

  – if the construction of these assets, by the corporation or partnership, as the case may be, or for either of them, started before April 1, 2005.

2.2.2 Temporary broadening of accelerated depreciation to fibre-optic cable and coaxial cable

To encourage, over the next few years, the deployment of fibre-optic cable or coaxial cable networks in regions of Québec outside the major urban centres, the assets consisting of such fibre-optic cables and coaxial cables may be eligible, for a temporary period, for the 100% accelerated depreciation deduction. This will also apply to the opto-electronic equipment and electronic equipment respectively associated with them.

Accordingly, such assets may give rise to this 100% accelerated depreciation deduction according to the same conditions as those stipulated for manufacturing or processing equipment, provided however that such assets are used in designated regions. These assets may also be covered by the supplementary deduction equal to 25% of the accelerated depreciation deduction claimed by a taxpayer for a taxation year, as well as, if applicable, the 20% additional deduction mentioned above. A separate class will have to be created for all such assets of a taxpayer entitling him to this deduction for accelerated depreciation.

Designated regions will include all the administrative regions of Québec, with the exception of the administrative regions of Montréal and Laval and, in the administrative region of Québec City, with the exception of the Communauté urbaine de Québec.[5]

The opto-electronic or electronic equipment will be considered as being associated with fibre-optic or coaxial cables if such equipment is a constituent part of a network of fibre-optic cables or coaxial cables and is connected to such a network. However, such equipment will not include the switches.

More specifically, the support equipment for such assets will not be eligible for the 100% accelerated depreciation deduction.

These changes will apply to such assets acquired after the day of the Budget Speech and before April 1, 2005, unless:

— they are acquired in accordance with a written obligation contracted no later than the day of the Budget Speech; or

— construction of such assets, by the taxpayer or for him, was underway on the day of the Budget Speech.

5 As defined by the *Act respecting the Communauté urbaine de Québec*.

2.2.3 Easing of the criterion regarding exclusive use in Québec regarding computer hardware installed in Québec

As indicated above, the 100% accelerated depreciation deduction, the 25% supplementary deduction for depreciation, and the exemption from the tax on capital may apply to computer hardware. However, such hardware must be used exclusively in Québec for a minimum period of 730 days following the day it begins to be used.

In the specific case of computer hardware, such an asset may be disqualified, for instance, when the employees of an establishment located in another jurisdiction query databases, on a regular or occasional basis, on an otherwise eligible computer installed in Québec.

To encourage the installation and maintenance of computer hardware in Québec, the tax legislation will be eased regarding computer hardware when it is installed in Québec.

Accordingly, in the case of computer hardware installed in Québec, the criterion of exclusive use in Québec will be replaced by a criterion of use mainly in Québec, during all of the minimum period of 730 days.
This change will apply regarding computer hardware acquired after the day of the Budget Speech.

2.2.4 Clarification regarding the 25% supplementary deduction in the case of a transfer of assets

Under existing rules, a taxpayer who acquires, from a person with whom he is not at arm's length, an asset that gives rise to the 25% supplementary deduction may, in some circumstances, claim this deduction regarding such asset.

Existing provisions may give the impression that the initial acquisition date of the asset by the assignor need not be taken into consideration to establish eligibility for the 25% supplementary deduction for the assignee.

To avoid any ambiguity in this regard, the tax legislation will be clarified to stipulate, in the case of a transfer of an asset between persons who are not at arm's length, that only the initial acquisition date of the asset will be considered in establishing eligibility for the 25% supplementary deduction.

This change will apply retroactively to the introduction of the 25% supplementary deduction, i.e., briefly, regarding assets initially acquired after March 25, 1997.

2.3 Introduction of a refundable tax credit to encourage Québec SMEs to adopt e-commerce solutions

To encourage Québec SMEs to adopt e-commerce solutions, they may claim, over the next two years, a refundable tax credit for eligible expenditures incurred in the course of implementing such solutions.

More specifically, an eligible corporation may claim a refundable tax credit equal to 40% of the eligible expenditures it incurs in this regard. However, the amount of this tax credit, for an eligible corporation, may not exceed $40 000.

❑ Eligible corporation

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

More specifically, such a corporation may claim the tax credit designed to encourage the adoption of e-commerce solutions, for a taxation year, if it satisfies either of the following conditions:

— the amount of its assets shown in its financial statements submitted to shareholders for its preceding taxation year or, if the corporation is in its first fiscal year, at the beginning of its first fiscal year, is less than $12 million, including the assets of corporations with which it is associated during the year;

— if the corporation is not in its first fiscal year, its gross income, for its preceding taxation year, is less than $25 million, including the gross income of corporations with which it is associated during the year.

In addition, eligible corporations that are members of a partnership which, had it been a corporation, would be an eligible corporation, may also claim this tax credit. In such a case, eligibility for the tax credit will be determined with reference to the partnership, but the tax credit will be granted to each eligible corporation that is a member of the partnership, for its taxation year in which the fiscal year of the partnership ends, on the basis of their respective shares of the income or loss of such partnership for such fiscal year.

❑ Eligible e-commerce solution

The expression “eligible e-commerce solution” of an eligible corporation, regarding a business it carries on in Québec, means:

— either a transactional Web site using the public network (Internet), or a limited-access secure and confidential public network (extranet), concerning such business;

— or a business-to-business transactions system as part of a private network, in relation to such business.

However, such e-commerce solutions must include a transaction mode by secure computerized channel. The transaction mode must allow the purchase or sale of tangible or intangible goods, services or the exchange of commercial documents. Accordingly, a secure computerized channel must allow the authentication of users and ensure the confidentiality of information exchanged.

In addition, e-commerce solutions relating to pornography, violence or lottery games do not qualify as eligible e-commerce solutions.

Lastly, an e-commerce solution must satisfy all the conditions for qualifying as an eligible e-commerce solution no later than March 31, 2003.

❑ Eligible expenditure

The expression “eligible expenditure” of an eligible corporation, for a taxation year, regarding an eligible e-commerce solution, means all the expenditures, incurred by such corporation, attributable to salaries and the cost of acquiring application software for inclusion in the eligible e-commerce solution, as part of the stages of implementation of the eligible e-commerce solution, including stages relating to:

— setting out an eligible e-commerce solution implementation assessment;

— developing a marketing plan for the eligible e-commerce solution;

— developing an eligible e-commerce solution;

— the training of the employees of the eligible corporation or technical support, for a period ending three months after the date of implementation of the eligible e-commerce solution, other than regarding the salary expenditures for employees of the eligible corporation being trained;

— the maintenance of the eligible e-commerce solution, for a period of three months after the date of implementation of the eligible e-commerce solution.

For this purpose, the date of implementation of the eligible e-commerce solution will correspond to the date on which such e-commerce solution is functional and satisfies, for the first time, all the conditions that enable it to qualify as an eligible e-commerce solution.

In addition, the expenditures relative to the execution of the work relating to the implementation of an e-commerce solution must be attributable to services provided in Québec by a taxpayer with an establishment there.

When the work relating to the implementation of an e-commerce solution for an eligible corporation is not carried out directly by the eligible corporation, it may still claim the tax credit, but only for part of the fees paid in this regard.

In particular, the eligible expenditure, in the case where a mandate is awarded to a third party with which the eligible corporation is at arm's length, will correspond to an amount equal to 80% of the fees attributable to the portion of the fees relating to expenditures otherwise eligible. In the case of a mandate awarded to a third party with which the eligible corporation is not at arm's length, the eligible expenditure will correspond to an amount equal to the expenditures othewise eligible incurred by such third party. In addition, the portion of the fees attributable to salary expenditures will, if necessary, be the portion that can be reasonably attributed to salaries if such third party had such salary expenditures.

More specifically, the expenditures incurred in the course of improving an e-commerce solution which fails to comply, on the date of the Budget Speech, with all the conditions that enable it to qualify as an eligible e-commerce solution, may give rise to the tax credit if the eligibility conditions are otherwise satisfied.

However, the following expenditures will not be eligible:

— expenditures to commercialize the e-commerce solution, except those relating exclusively to the design of a marketing plan;

— expenditures for the acquisition or leasing of assets except those relating to the acquisition of application software to be incorporated into the e-commerce solution;

— expenditures for hosting an e-commerce solution;

— any other expenditure not related to the design of an e-commerce solution or the incorporation of such a solution within a business.

Furthermore, the eligible expenditures must be reduced by the amount of any government assistance, any non-government assistance and any profit or benefit, according to the usual rules.

Lastly, the eligible expenditures must have been paid at the time the refundable tax credit is claimed.

❑ Limit on the tax credit

The amount of the refundable tax credit an eligible corporation may claim, for a taxation year, regarding the implementation of an eligible e-commerce solution, will be equal to 40% of all the eligible expenditures it incurs and of its share of such expenditures incurred by a partnership of which it is a member, if any, regarding an eligible e-commerce solution, for such taxation year. However, this tax credit will be limited, for an eligible corporation, to $40 000, for the entire period, described below, regarding which eligible expenditures may be incurred regarding an eligible e-commerce solution.

More specifically, the limit on the tax credit, in relation to eligible expenditures incurred by a partnership, will also be $40 000 for the partnership.

In addition, the members of a group of associated corporations will have to share the $40 000 limit among themselves by filing an agreement to that effect with the MRQ.

❑ Excluded corporation

An “excluded corporation”, for a taxation year, means:

— a corporation for which the wages and salaries the corporation paid during the year to employees of establishments located in Québec as a proportion of all the wages and salaries it paid during the year is less than 50%;

— a corporation which earns more than 10% of its gross income, for the year, from a source other than the operation of an eligible business;

— a corporation that is tax-exempt for the year;

— a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Other application details

If an eligible expenditure for which a tax credit was granted is paid back to the eligible corporation or partnership, in whole or in part, or if the criterion regarding compliance with all the conditions that enable an e-commerce solution to qualify as an eligible e-commerce solution is not satisfied by March 31, 2003 at the latest, the tax credit granted will be recaptured by means of a special tax.

An eligible corporation wishing to claim a tax credit, for a taxation year, must enclose with its tax return, for such year, a form prescribed by the MRQ. This tax credit may also be applied against any tax instalments the eligible corporation may be required to make for income tax and the tax on capital.

Lastly, in view of the temporary nature of this tax credit and its specific objective, corporations located in a designated site allowing them to claim specific tax credits linked to the performance of activities in such a site, may claim such specific tax credits in the course of carrying out mandates they may receive for the implementation of eligible e-commerce solutions, even if the corporation which awards the execution of the work can itself claim the tax credit to encourage the implementation of eligible e-commerce solutions. These designated sites are information technology development centres (CDTI), the Cité du multimédia, the Centre national des nouvelles technologies de Québec (CNNTQ) and new economy centres (CNE).

For the same reasons, corporations specializing in the production of multimedia titles may, when the implementation of an eligible e-commerce solution requires the production of a multimedia title, claim the tax credit for corporations specializing in the production of multimedia titles in the course of carrying out mandates they may receive for the implementation of eligible e-commerce solutions, even if the corporation which awards the execution of the work can itself claim the tax credit to encourage the implementation of eligible e-commerce solutions.

❑ Period of eligibility of expenditures

The expenditures relating to the implementation of an eligible e-commerce solution must be incurred by a corporation, or by a partnership as the case may be:

— after the day of the Budget Speech and before April 1, 2002;

— after March 31, 2002 and before October 1, 2002:

  – if they are incurred in accordance with a written obligation contracted before April 1, 2002; or

  – if the implementation of an eligible e-commerce solution by the corporation or partnership, as the case may be, or for either of them, had started before April 1, 2002.

2.4 Introduction of a refundable tax credit for the Vallée de l'aluminium

The Forum sur la transformation de l'aluminium, held in September 1999, and consultations held by the government have pointed to the need to improve the advantages of the Saguenay—Lac-Saint-Jean region regarding the processing of aluminum, especially regarding the intensification of activities in the region involving the manufacturing or processing of aluminum into high value-added finished or semi-finished goods.

In this context, a new refundable tax credit will be introduced, for a four-year period beginning January 1, 2000, to offset the costs relating to the apprenticeship period of new employees of businesses in the region operating in the field of manufacturing of finished or semi-finished products that have undergone primary processing, or in the field of manufacturing of specialized equipment for aluminum production or aluminum processing businesses.

More specifically, this tax credit will be granted regarding the increase in payroll attributable to production or commercialization employees of an eligible corporation operating in these fields, in the administrative region of Saguenay—Lac-Saint-Jean. The rate of this new refundable tax credit will be 40%.

❑ Eligible corporation

In general, any corporation, other than an excluded corporation, which, during a calendar year, carries on a business in Québec and has an establishment there, may, under certain conditions, claim this tax credit regarding such calendar year.

More specifically, a corporation, for the taxation year in which the calendar year ends, must carry on a certified business in the eligible region.

❑ Eligible region

The eligible region corresponds to the territory included in the Saguenay—Lac-Saint-Jean administrative region.

❑ Certified business

For the purposes of this tax credit, a “certified business” means a business for which an eligibility certificate has been issued by Investissement-Québec and whose activities consist in:

— manufacturing, in whole or in part, finished or semi-finished products from aluminum which has already undegone primary processing and, incidentally, as the case may be, commercializing them; or

— manufacturing mainly specialized equipment for aluminum production or aluminum processing businesses and, incidentally, as the case may be, commercializing it.

❑ Determination of the tax credit

An eligible corporation may, regarding a calendar year, claim the tax credit based on the increase in payroll attributable to its eligible employees, according to the following formula:

Amount of tax credit = 40% x (A - B)

Where:

— the letter A represents all salaries paid by the corporation to its eligible employees for the calendar year;

— the letter B represents the reference amount for the corporation for the calendar year.

For this purpose, the salary to be considered will be the employment income of an eligible employee, excluding the attendance fees of a director, a bonus, performance premium, remuneration for work done outside normal working hours, a commission and taxable benefits that must be included in calculating such employee's employment income.

The reference amount of a corporation, for a given calendar year, will be equal to all salaries paid, during the corporation's reference period, for such year, to its eligible employees and to employees of an establishment located in Québec of the corporation who would be eligible employees if they had been employees of an establishment of the corporation located in the eligible region. Special rules, described below, will be stipulated for calculating the reference amount in the case of associated corporations, and in cases of mergers or winding-up.

The reference period of a corporation, for a given calendar year, will correspond to the number of days of the preceding calendar year in which a certified business was carried on in Québec by the corporation. Particular terms and conditions, described below, will be stipulated regarding corporations resulting from a merger and those to which certain provisions concerning winding-up are applied.

To determine the tax credit, an eligible corporation having both an establishment in the eligible region and one elsewhere in Québec must calculate the amount of the increase in its payroll attributable to eligible employees as though it had only one establishment in the eligible region. However, this amount must not exceed the total of the amount of the increase in payroll attributable to its eligible employees and to employees of an establishment located in Québec of the corporation who would be eligible if they were employees of an establishment of the eligible corporation located in the eligible region.

In addition, rules similar to those stipulated under the refundable tax credit for the Cité de l'optique will be applicable when the activities that a person or partnership carried out in Québec, in relation to a business, decline or cease and, as a result, the activities of an eligible corporation relating to a certified business commence or increase in scope, in an establishment of such corporation located in the eligible region.

Accordingly, a newly constituted corporation who will establish itself in the eligible region will be able, for a given calendar year, to claim the tax credit according to the total increase in payroll attributable to its eligible employees, subject, in particular, to the rules relating to associated corporations and to transfers of activities from a person to another.

❑ Eligible employee

An "eligible employee" of an eligible corporation means an employee of an establishment of such corporation located in the eligible region, who is not a specified shareholder of such corporation.

In addition, at least 90% of the duties of such individual, with the eligible corporation, must be directly related to:

— either the manufacturing of finished or semi-finished products from aluminum that has already undergone primary processing or, as the case may be, to their commercialization;

— or the manufacturing of specialized equipment for aluminum production or aluminum processing companies or, as the case may be, to its commercialization.

Accordingly, subject to the other conditions that must be satisfied, an employee who devotes at least 90% of his time to carrying out, supervising or directly supporting the manufacturing or, as the case may be, the commercialization of such products or equipment, is considered an eligible employee for the purposes of this tax credit. More specifically, duties relating to general administration are not eligible.

❑ Associated corporations

To determine the amount used as a basis for calculating the tax credit of an eligible corporation which, at the end of a given calendar year, is associated with one or more other corporations, the following amounts are determined on a consolidated basis:

— all:

  – wages paid for the given calendar year by the associated corporations, at the end of such calendar year, to eligible employees; and

  – in the case of an associated corporation, at the end of such calendar year, which has no eligible employees, the lesser of its reference amount that would be otherwise determined, for the calendar year, or the wages paid, for the calendar year, to employees of an establishment of the corporation located in Québec who would be eligible employees had they been employees of an establishment of the corporation located in the eligible region;

— all the reference amounts of each associated corporation, at the end of the given calendar year, that would be otherwise determined for such calendar year.

For the purposes of these rules, an associated corporation having both an establishment in the eligible region and another establishment elsewhere in Québec will be considered as a separate corporation regarding each of these establishments.

In addition, associated corporations which are eligible corporations will have to distribute the amount of the increase in payroll attributable to eligible employees among themselves by filing an agreement to that effect with the MRQ. However, the amount allocated in this way to an eligible corporation may not exceed the amount of the increase in payroll attributable to its eligible employees.

❑ Excluded corporation

An “excluded corporation”, for a taxation year, means:

— a corporation which earns more than 10% of its gross income, for the taxation year in which the calendar year ends, from a source other than the operation of an eligible business, as this expression is understood for the purposes of the tax legislation;

— a corporation that is tax-exempt for the taxation year in which the calendar year ends;

— a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Specific terms and conditions

- **Reference amount**

To determine the reference amount of a corporation resulting from an amalgamation for a given calendar year, the calculation of the reference amount described above includes any amount thus determined for each replaced corporation, for a number of days corresponding to the reference period of the corporation resulting from the amalgamation.

A similar rule will apply, in a winding-up situation,[6] to the determination of the reference amount of a parent corporation so as to include the reference amount of its subsidiaries therein.

- **Reference period**

The reference period of a corporation resulting from an amalgamation will include the number of days of the preceding calendar year when a certified business was carried on in Québec by a replaced corporation.

In the case of a corporation which was a parent corporation in a winding-up,[7] the reference period will include the number of days of the preceding calendar year, without exceeding 365, in which a certified business was carried on in Québec by a subsidiary.

❑ Reduction in the amount of wages paid to eligible employees

The total amount of wages paid to eligible employees by an eligible corporation (or to employees of an establishment of the corporation located in Québec who would have been eligible employees had they been employees of an establishment of the corporation located in the eligible region), for a calendar year, must be reduced by the amount of any government assistance, any non-government assistance and any profit or benefit, according to rules similar to those applicable for the purposes of the refundable tax credit for the Cité de l'optique.

In addition, this amount must also be reduced by the amount of wages for which another refundable tax credit has been granted, or a super-deduction for R&D has been granted.

For the purposes of this new refundable tax credit, it will not be considered as an amount of assistance or as an incentive payment.

6 Winding-up of a subsidiary at least 90% of the shares of whose capital stock belonged to the parent corporation.

7 *Ibid*.

❑ Other application details

If a wage expenditure regarding which a tax credit was granted is paid back to the eligible corporation, the tax credit thus granted will be recaptured by means of a special tax.

In addition, this tax credit may not be applied against the instalments an eligible corporation must pay on account of income tax and tax on capital.

In order to benefit from this tax credit, for a calendar year, an eligible corporation must enclose with its tax return, for its taxation year in which such calendar year ends, a form prescribed by the MRQ. A copy of the eligibility certificate issued by Investissement-Québec must also be enclosed.

Furthermore, the wages regarding which a tax credit is claimed must have been paid at the time the tax credit is claimed.

Lastly, the MRQ may consult Investissement-Québec to learn whether a given employee qualifies as an eligible employee. More specifically, only the information needed to obtain an opinion from Investissement-Québec will be provided, in order to protect the otherwise confidential nature of the information obtained by the MRQ in the course of applying a fiscal law.

❑ Anti-avoidance rule

An anti-avoidance rule will stipulate that a corporation may not be entitled to this tax credit if, because of transactions or operations, the MRQ may reasonably consider that one of their main goals is to enable the corporation to claim a tax credit it would otherwise not have obtained.

❑ Application date

This measure will apply regarding calendar years 2000 to 2003.

2.5 Introduction of a refundable tax credit for the Technopôle Angus

To encourage the reconversion of a sector of Montréal Island which has been especially affected by deindustrialization, the Québec government will provide tax assistance to businesses that locate on the site of the former Angus yards. This site, now called the “Technopôle Angus”, is the core of a sustainable economic development project undertaken by local socio-economic development groups seeking to become involved in job-creating projects.

The tax assistance will be provided in the form of a refundable tax credit, for a period of four years beginning January 1, 2000. It will be provided to offset the costs relating to the apprenticeship period of new employees of businesses located in the Technopôle Angus and operating either in the field of manufacturing or processing goods, or in the environmental field.

More specifically, this tax credit will be provided regarding the increase in payroll attributable to production or commercialization employees of an eligible corporation operating in these fields, in the Technopôle Angus. The rate of this new refundable tax credit will be 40%.

The application details of this tax credit will be similar to those of the refundable tax credit for the Vallée de l'aluminium, introduced in this Budget Speech, with the necessary adaptations and subject to the rules stipulated below.

❑ Eligible corporation

In general, any corporation, other than an excluded corporation, which, during a calendar year, carries on a business in Québec and has an establishment there, may, under certain conditions, claim this tax credit regarding such calendar year.

More specifically, a corporation, for the taxation year in which the calendar year ends, must carry on a certified business in the Technopôle Angus.

❑ Technopôle Angus

The Technopôle Angus site has an area of approximately 2.4 million square feet, is located within the city of Montréal and bounded as follows:

— to the West, by the Canadian Pacific railroad tracks;

— to the South, by Rachel Street;

— to the East, by André-Laurendeau Street, as well as its extension in a straight line to Gilford Street;

— to the North, by the extension of Gilford Street in a straight line towards Place Chassé as far as the Canadian Pacific railroad tracks.

However, the building bearing civic number 2595 Place Chassé and the attached lot are not part of the Technopôle Angus site.

❑ Certified business

For the purposes of this tax credit, a "certified business" means a business for which an eligibility certificate has been issued by Investissement-Québec and which is:

— either a business whose chief activities consist in carrying out a manufacturing activity, i.e. an activity involving the assembly or processing of a material, whether raw material or material which has undergone one or more processing stages, to obtain a product and, incidentally, as the case may be, commercializing it; or

— a business in the manufacturing sector for the purposes of the *Act respecting Québec Business Investment Companies,* whose chief activities consist in recycling and, incidentally, as the case may be, in commercializing the resulting products; or

— a business in the environmental sector for the purposes of the *Act respecting Québec Business Investment Companies,* whose chief activities consist, in particular, either of site decontamination and reclamation activities in general, or of activities involving the thermal, physical-chemical or biological treatment of soil, underground or surface water, liquid effluent, air emissions or contaminated sediment and, incidentally, as the case may be, in commercializing the resulting services or products.

However, the expression "manufacturing activity, i.e. an activity involving the assembly or processing" does not include construction, production of industrial minerals, production or processing of electrical energy for the purpose of sale, processing natural gas as part of the business of selling or distributing gas in the course of operating a public utility, as well as Canadian field processing, as defined in the tax legislation.

❑ Application date

This measure will apply regarding calendar years 2000 to 2003.

2.6 Tax credit for the Cité de l'optique

On June 30, 1999, a refundable tax credit for the Cité de l'optique was introduced.[8] This tax credit, whose rate is is 40%, is granted regarding the increase in payroll attributable to production or commercialization employees of an eligible corporation operating in the optics, photonics or laser sector, in the Québec City region. The tax credit applies for calendar years 1999 to 2002.

8 Ministère des Finances du Québec Information Bulletin 99-1.

In general, for the purposes of this tax credit, a corporation must carry on, in the Québec City region, a business manufacturing and commercializing apparatus or equipment relating to the optics, photonics or laser sector. Such a business means, in particular, a business whose activities consist in manufacturing, in whole or in part, apparatus or equipment in this field and, incidentally, as the case may be, commercializing them.

2.6.1 Clarification concerning the notion of remuneration

As part of the determination of the increase in payroll of an eligible corporation, the salary considered is the employment income of an eligible employee, excluding attendance fees of a director, a bonus, performance premium, remuneration for work done outside normal working hours, commission and taxable benefits that must be included in calculating the employment income of such employee.

To ensure that the notion of salary considered for the determination of this tax credit more accurately reflects the situation of the remuneration paid to an employee whose activities are related to the commercialization of equipment relating to the optics, photonics or laser sector, this notion will include, retroactive to calendar year 1999, performance premiums and commissions paid to such an employee by the eligible corporation.

2.6.2 Extension of the tax credit

Moreover, to further encourage new corporations operating in this sector to come to the Québec City region, the application of this tax credit will be extended to calendar year 2003.

2.7 Measures concerning culture

Over the years, the Québec government has implemented a large number of measures to support Québec's cultural industries and their development. One effect of these programs has been to encourage job creation in this activity sector.

Support for cultural industries will be boosted through the introduction of a new refundable tax credit for book publishing. In addition, clarifications will be made to the refundable tax credit for Québec film and television production, as well as to the refundable tax credits for the production of sound recordings and musical productions.

2.7.1 Introduction of a refundable tax credit for book publishing

Currently, the Québec book publishing industry is supported by Québec government assistance programs that enable it to increasingly diversify its production.

However, given the small size of the local market and in view of foreign competition, Québec publishers must seek new outlets to secure their viability. One of the main barriers to exporting books is the lack of resources among Québec publishers for investing in the preparation of a book and assuming the risk of recovering their investment over many years.

In addition, Québec publishers are gradually withdrawing from the production of certain types of books, such as technical and scientific books, encyclopedias and dictionaries, because of the high preparatory costs for these types of major publishing projects.

Furthermore, their positoin in the field of translation of foreign books distributed in Québec is precarious, considering that about 70% of bestsellers entering Québec are American and most of these are translated in France before being shipped to Québec.

In this context, to further support the activities of businesses operating in the book publishing field, a new refundable tax credit will be implemented to enable Québec publishers to penetrate foreign markets for Québec productions, produce major publishing projects and develop the translation market.

In general, this refundable tax credit will be geared to a corporation which has an establishment in Québec and carries on a book publishing business there. It will cover labour expenditures attributable to the preparation and printing of a book, and will provide an eligible corporation with assistance ranging from 10% to 20% of the total preparatory and printing costs of the book.

❑ Eligible corporation

For the purposes of the refundable tax credit for book publishing, an “eligible corporation”, for a taxation year, means a corporation, other than an excluded corporation, which is a publishing house recognized by the Société de développement des entreprises culturelles (SODEC) and which, in the year, has an establishment in Québec and carries on a book publishing business there.

To be recognized by SODEC as a publishing house, a corporation must satisfy the following conditions:

— it edits and publishes books;

— it concludes contracts with one or more authors or copyright holders, with a view to publishing their books;

— it commercializes the books it publishes;

— it assumes all the financial and commercial risks associated with the publishing business.

❑ Eligible book

An "eligible book" may give rise to the refundable tax credit provided SODEC has issued a certificate for it according to which it satisfies the following criteria:

— it is not an excluded book;

— it is published for commercial purposes;

— it is written by a Québec author or, if it is written by more than one author, at least 50% of them are Québec authors, excluding any authors who simply illustrate the text of the book;

— it is published under the trademark of the eligible corporation or under a mark for which the eligible corporation has acquired the publication rights;

— it has at least 48 printed pages, except in the case of a collection of poetry, in which case it must have at least 32 printed pages, or a children's book or comic book, in which cases it must have at least 16 printed pages;

— it is published in a bound book with a cover;

— at least 75% of the amounts paid for its preparation and printing, other than the non-refundable advances paid to Québec authors and except for the specific case described below regarding printing costs, are paid to persons residing in Québec at the end of the calendar year preceding the one during which the printing work began or to corporations which had an establishment in Québec during such year.

In the case of the amounts paid for printing the book, the percentage may be lower than 75% of the amounts paid in this regard if the eligible corporation can demonstrate, to the satisfaction of SODEC, that the printing technology that must be used for the book is not offered by a corporaiton with an establishment in Québec.

A book is excluded if it belongs to any of the following categories:

— reprinted books;

— periodically published books, including books that are continuously updated;

— books that include advertising other than promotion for the publishing house;

— books which are directories, calendars, agendas, almanacs, catalogues, drawing books, colouring books or any other type of perishable work;

— books whose pages are typewritten, photocopied, duplicated or handwritten;

— books that encourage sexism, violence or discrimination.

The expression “Québec author” means:

— either an author who resided in Québec at the end of the calendar year preceding the one during which the publishing work began;

— or an author who, before the publishing work started, had previously resided in Québec for a minimum of five consecutive years.

❑ Eligible group of books

A book of an “eligible group of books” may give rise to the refundable tax credit provided SODEC has issued a certificate regarding this eligible group of books, according to which each book of the group satisfies the same criteria as those listed above regarding an eligible book, subject to the following specific points:

— all the books of the group are published by the eligible corporation;

— none of the books of the group is jointly published;

— at least 75% of the total amount paid for the preparation and printing of the books of the group, other than the non-refundable advances paid to Québec authors, are paid to persons residing in Québec at the end of the calendar year preceding the one during which the printing work for these books began or to corporations which had an establishment in Québec during such year;

— none of the books of the group requires a printing technology that is not offered by a corporation with an establishment in Québec.

❑ Calculation of the tax credit

The refundable tax credit that may be claimed, for a taxation year, by an eligible corporation regarding an eligible book or a book that is part of a eligible group of books, corresponds to the total of the following amounts:

— 40% of its eligible labour expenditures regarding the eligible preparatory costs of the book. However, these expenditures may not exceed 50% of the eligible preparatory costs of the book;

— 30% of its eligible labour expenditures regarding the eligible printing costs of the book. However, these expenditures may not exceed 33⅓% of the eligible printing costs of the book.

However , the tax credit an eligible book or a book that is part of an eligible group of books gives rise to may not exceed $500 000.

❑ Eligible preparatory costs

The eligible preparatory costs of an eligible corporation, for a taxation year, regarding an eligible book or a book that is part of an eligible group of books, consist of the total of the following amounts:

— preparatory costs consisting of costs, other than publishing fees and administration expenses, incurred before the book is printed and including the non-refundable advances paid to the author(s), setup, design, research, illustration, layout development, page make-up, composition and prepress shop expenses;

— an amount relating to publishing fees and administration costs relating to the book equal to 15% of the expenses covered in the preceding sub-paragraph.

❑ Eligible printing costs

The eligible printing costs of an eligible corporation, for a taxation year, regarding an eligible book or a book that is part of an eligible group of books, consist of the expenses, other than publishing fees and administration costs, incurred for the first printing of the book, its first binding and its first assembly.

❑ Eligible labour expenditures

For the purposes of this tax credit, the eligible labour expenditures, for a taxation year, relating to the publishing of an eligible book or a book that is part of an eligible group of books, consist of all the following amounts, provided they are reasonable in the circumstances:

— labour expenditures attributable to the eligible preparatory costs of the book, namely:

– wages and salaries directly attributable to the preparation of the book, which the eligible corporation incurs in the year, after the day of the Budget Speech, and which it pays, in the year or the 60 days following the end of the year, to its employees for services they provided in Québec;

– non-refundable advances, directly attributable to the preparation of the book, which the eligible corporation incurs, in the year, in accordance with a contract concluded after the day of the Budget Speech, and which it pays, in the year or the 60 days following the end of the year, to Québec authors or to holders of the rights of a Québec author;

– the portion of the remuneration, other than a wage, salary or non-refundable advance, which the eligible corporation pays in the year or the 60 days following the end of the year, and which it incurs, in the year, in accordance with a contract concluded after the day of the Budget Speech, regarding:

- either an individual who carries on a business in Québec and has an establishment there, who is not at arm's length with the eligible corporation at the time the contract is concluded, provided such portion of the remuneration is reasonably attributable either to the delivery of services provided in Québec personally by the latter, or to the wages of employees of the individual who provided services in Québec in the course of the preparation of the book;

- or a corporation with an establishment in Québec, which is not at arm's length with the eligible corporation at the time the contract is concluded, and which is not a corporation covered by the following sub-paragraph, provided such portion of the remuneration is reasonably attributable to the salaries of the employees of this corporation who provided services in Québec in the course of the preparation of the book;

- or a corporation with an establishment in Québec, which is not at arm's length with the eligible corporation at the time the contract is concluded, all of whose issued capital stock, other than qualifying shares, belongs to an individual and whose activities consist mainly in supplying the services of such individual, provided such portion of the remuneration is reasonably attributable to the delivery of services he provided in Québec in the course of the preparation of the book;

- or a partnership which carries on a business in Québec and has an establishment there, which is not at arm's length with the eligible corporation at the time the contract is concluded, provided such portion of the remuneration is reasonably attributable either to the delivery of services provided in Québec in the course of the preparation of the book by an individual who is a member of the partnership, or to the salaries of employees of the partnership who provided services in Québec in the course of the preparation of the book;

– half of the consideration, other than a wage, salary or a non-refundable advance, which the eligible corporation pays in the year or the 60 days following the end of such year, and which it incurred in the year, under a contract concluded after the day of the Budget Speech, regarding an individual, a corporation or a partnership, as described above, but who, at the time the contract is concluded, is at arm's length with the eligible corporation;

— the labour expenditures attributable to eligible printing costs of the book, i.e. the amounts paid to the same persons as listed above, with the adaptations needed in relation to expenditures attributable to the printing costs of the book. However, concerning expenditures paid to a sub-contractor who is at arm's length with the eligible corporation, eligible labour expenditures consist of only one third of the consideration, other than a wage or salary, which the eligible corporation paid during the year or the 60 days following the end of such year, and which it incurred, during the year, under a contract concluded after the day of the Budget Speech.

❑ Joint publishing of an eligible book

For the purposes of this tax credit, the eligible labour expenditures of an eligible corporation, for a taxation year, in relation to the joint publishing of an eligible book, consist of all the amounts listed above in this regard, subject to the following specific points:

— the corporation must actively participate in the preparation of the book;

— the share of the publishing costs and labour expenditures incurred by the corporation must reflect the importance of the responsibilities it assumes in the joint publishing venture, in particular from the financial standpoint.

In this context, the criterion to the effect that at least 75% of the amounts paid for the preparation and printing of the book must be paid to persons who resided in Québec at the end of the calendar year preceding that during which the publishing work began or to corporations which had an establishment in Québec for such year, will only apply to the amounts paid by a corporation which is otherwise eligible for this tax credit.

In addition, the $500 000 limit will be shared solely among the joint publishers which are corporations otherwise eligible for this tax credit, so as to reflect the share of publishing costs and labour expenditures they incurred for this joint publishing venture and which reflects the importance of their responsibilities in it.

❑ Excluded corporation

An “excluded corporation”, for a taxation year, means:

— a corporation which, at any time during the year or the 24 months preceding such year, is controlled, directly or indirectly, in any manner whatever, by one or more persons not residing in Québec;

— a corporation which is tax-exempt for such year;

— a Crown corporation or a subsidiary wholly controlled by such a corporation.

❑ Other application details

The amount of eligible preparatory costs, eligible printing costs and eligible labour expenditures must be reduced, according to the usual rules, by the amount of any government or non-government assistance and of any profit or benefit attributable to such costs or such labour expenditures, with the exception of:

— amounts paid under the Book Publishing Industry Development Program of the Department of Canadian Heritage;

— grants to book publishers, for interntional translation and joint projects of authors and publishers of the Canada Council;

— amounts paid under the SODEC assistance program for specialized publishing and book enterprises.

This tax credit may be applied against the instalments an eligible corporation must pay regarding income tax and tax on capital.

If an eligible labour expenditure regarding which a tax credit was granted is paid back to the eligible corporation, in whole or in part, the tax credit granted regarding the amount thus repaid will be recaptured by means of a special tax.

Lastly, in order to claim this tax credit, for a taxation year, an eligible corporation must enclose with its tax return, for such year, a form prescribed by the MRQ as well as a copy of the certificate issued by SODEC regarding the eligible book or the book that is part of an eligible group of books.

❑ Role of SODEC

SODEC will issue a certificate for each eligible book or, should it so authorize, for each eligible group of books, in which case each book of the group will be identified on the certificate. The certificate will consist, if need be, of a prior decision for the duration of the publishing work of the eligible book or of the books of the eligible group of books, and of a final decision when a printed copy of the eligible book or of all the books of an eligible group of books is filed with SODEC.

The eligible corporation must file along with its application for certification a cost report for each eligible book or each eligible group of books, as the case may be, on which an external public accountant has issued an opinion.

SODEC shall indicate its recognition of a publishing house on the certificate it issues regarding an eligible book or an eligible group of books.

Lastly, the certificate that SODEC issues, regarding the joint publishing of an eligible book, will indicate the share of each joint publisher corporation concerning publishing costs, labour expenditures and the $500 000 limit applicable to this tax credit.

❑ Revocation of a certificate

SODEC will have the power to revoke a certificate if the conditions that led to its being issued are no longer satisfied or if the facts on which the issuing of the certificate was based prove to be inaccurate.

A certificate that is revoked by SODEC is void as of the time it was issued. In such case, the tax credit granted will be recaptured by means of a special tax.

❑ Beginning of publishing work

For the purposes of this tax credit, the beginning of the publishing work of an eligible book means the time when the eligible corporation concludes a publishing contract with the author or one of the authors of such book. In the case of an eligible group of books, the beginning of the publishing work means the time when the eligible corporation concludes the first publishing contract with one of the authors of one of the books of this group.

❑ Application date

This measure will apply regarding an eligible book, or regarding an eligible group of books, for which the publishing work begins after the day of the Budget Speech.

2.7.2 Refundable tax credit for Québec film or television production

The refundable tax credit for Québec film or television production covers labour expenditures incurred by a corporation that produces a Québec film, as this expression is understood in the *Regulation respecting the recognition of films as Québec films*. However, labour expenditures eligible for this tax credit may not exceed 45% of production costs.

The March 25, 1997 Budget Speech tightened the definition of eligible labour expenditure regarding amounts paid under a sub-contract, to allow only the remuneration paid to a sub-contractor corporation with an establishment in Québec. However, in view of the prevailing situation at the time, more specifically concerning the absence, in Québec, of corporations with the expertise and equipment needed in the field of animation production, a three-year moratorium was implemented to enable amounts paid to foreign sub-contractors to qualify as eligible labour expenditures for such productions. This moratorium ends on March 25, 2000.

It was also announced that the tax credit for film or television production would be limited to a ceiling of $2.5 million per production, with the ceiling applying to all the episodes of a television series.

❑ Moratorium for animation productions

While some Québec businesses have developed the expertise and techniques needed for animation productions, currently they are not able to meet the need for specialized manpower for such productions.

In this context, the moratorium for animation productions will be extended for one year. Accordingly, the restriction on the definition of eligible labour expenditure, such that only amounts paid to a sub-contractor corporation with an establishment in Québec are recognized as such, will only apply to an animation production for which the main photography or recording work begins after March 25, 2001.

❑ Ceiling of $2.5 million per production or per series

The tax legislation will also be amended to specify that the $2.5-million ceiling applicable to the tax credit for film or television production must only be shared, regarding a coproduction, among the coproducing corporations otherwise eligible for the tax credit.

In this regard, the certificate issued by SODEC, for a film or television coproduction, will indicate the share of each coproducing corporation concerning the production expenses, labour expenditures and the $2.5-million ceiling applicable to this tax credit, so as to reflect the share of the production expenses and labour expenditures each of them incurred for this coproduction and which takes into account the importance of its responsibilities in it.

This change will apply to an eligible film or television production for which the main photograhy or recording work begins after the day of the Budget Speech.

2.7.3 Refundable tax credits for the production of sound recordings and musical productions

The refundable tax credits for the production of sound recordings and for musical productions were introduced in the March 9, 1999 Budget Speech. The application details of these tax credits are similar to those of the refundable tax credit for Québec film or television production.

However, unlike the application details of the refundable tax credit for Québec film or television production, the application details of these two tax credits stipulate, regarding labour expenditures, that the employees of the producing or sub-contractor corporation, as the case may be, must provide their services in Québec.

Also, SODEC must issue a certificate stating that the show satisfies certain eligibility criteria concerning, in particular, the Québec content of the show, the fact that it is produced, operated and controlled by an corporation eligible for this tax credit and, as the case may be, the percentage of songs or instrumental music in the show.

Lastly, the tax credit granted for a sound recording or musical production may not exceed $50 000 or $300 000 respectively. In the case where the sound recording or musical production is coproduced, these ceilings must be allocated among the coproducers according to their respective share in the production costs, for the purposes of calculating the tax credit each of them is entitled to, whether or not the coproducers are corporations otherwise eligible for the tax credit.

❑ Services provided outside Québec regarding an eligible musical production

The performing arts industry is particular in the sense that a show can tour outside Québec. However, the rules of the tax credit for musical productions do not reflect this situation.

Accordingly, the tax legislation will be amended so that the amounts paid to employees of the producer corporation or to a sub-contractor, as the case may be, for services relating to mounting a musical production, are eligible for the tax credit for musical productions, when such employees or such sub-contractor provide their services outside Québec, provided the conditions otherwise applicable to this tax credit are satisfied.

❑ SODEC certification of an eligible musical production

The tax credit for musical productions covers the labour expenditures incurred by a corporation, other than those incurred in particular for the distribution and promotion of the show, for the period including the stages ranging from the pre-production of the show to the end of the third full year following its first public performance.

The eligibility criteria for a show that SODEC uses to issue a certificate may refer to a longer period, in view of the longevity of certain shows.

Consequently, the tax legislation will be amended to specify that the certificate issued by SODEC, concerning these eligibility criteria, will cover the following three periods separately:

— the period covering the pre-production of the show until the end of the first full year following its first public performance;

— the period covering the second full year following the first public performance of the show;

— the period covering the third full year following the first public performance of the show.

However, SODEC will not issue a certificate for any of these periods if the eligibility conditions for the show were not satisfied for the period covering the pre-production of the show until the end of the first full year following its first public performance.

❑ $50 000 and $300 000 ceilings applicable to these tax credits

The tax legislation will be amended to specify that the $50 000 and $300 000 ceilings applicable respectively to the tax credit for the production of sound recordings and to the tax credit for musical productions, must be shared, in the case of a coproduction, only among coproducing corporations that are otherwise eligible for these tax credits.

In this regard, the certification SODEC issues, regarding a coproduction of a sound recording or a musical production, will indicate the share of each coproducing corporation concerning the production costs, labour expenditures and the $50 000 and $300 000 ceilings applicable respectively to these tax credits, to reflect the share of production costs and labour expenditures each of them incurred for the coproduction and which takes into account the importance of its responsibilities in it.

❑ Application date

These changes will apply regarding labour expenditures otherwise eligible for these tax credits incurred after March 9, 1999.

2.8 Measures pertaining to the knowledge-based economy

Québec's tax legislation includes a package of measures that favour businesses that carry out R&D and other forms of innovation in activity sectors identified with the knowledge-based economy. Examples are the measures relating to R&D, the CDTIs, the Cité du multimédia, the CNNTQ and the CNEs.

To better adapt measures relating to R&D and the knowledge-based economy in general, a number of adjustments will be made to the existing rules.

2.8.1 Introduction of a tax holiday for foreign specialists working in the Cité du multimédia, the CNNTQ or a CNE

The current tax rules stipulate that foreign specialists employed by an eligible corporation that carries on a business in a CDTI can claim a deduction, in calculating their taxable income, regarding the salary paid to them by the corporation for a period of five years as foreign specialists.

In view of the advantage provided by such a tax measure in recruiting foreign specialists and the importance of these specialists, for some corporations, in carrying out the initial phases of activities relating to the knowledge-based economy, a similar tax holiday will henceforth be available for foreign specialists employed by a corporation which carries on a business in the Cité du multimédia, the CNNTQ or a CNE. Accordingly, a foreign specialist employed by such a corporation may claim a deduction in calculating his taxable income regarding the salary paid to him by the corporation for a period of five years as a foreign specialist.

In general, the application details of this tax holiday will be similar to those of the tax holiday available to foreign specialists employed by an eligible corporation that carries on a business in a CDTI. However, for the purposes of the criterion concerning the proportion of certain duties such a specialist must carry out, only the portion of the duties he carries out which relates to eligible activities of the eligible corporation will be considered.

More specifically, the duties of such a foreign specialist with an eligible corporation must be attributable almost exclusively to eligible activities of the corporation. In addition, these duties must consist almost exclusively in carrying out:

— training;

— research and development;

— specialized tasks regarding management in the field of innovation, commercialization, technology transfer or innovation financing;

— a combination of the above items.

This change will apply regarding an individual who, after the day of the Budget Speech, commences employment as a foreign specialist with a corporation which carries on a business in the Cité du multimédia, the CNNTQ or a CNE, under an employment contract concluded after that day.

2.8.2 Interaction of tax credits relating to the carrying out of activities in designated sites with the tax credits for the film and television industry

Eligible corporations which move into a designated site can claim a refundable tax credit regarding the eligible salaries they pay to eligible employees to carry out eligible activities. These designated sites are the CDTIs, the Cité du multimédia, the CNNTQ and the CNEs.

These corporations, established in such designated sites, carry out their activities mainly in the field of information and communications technology. These activities often call for technological innovation and occur downstream from R&D. Commonly identified with the knowledge-based economy, they include computer-generated special effects and computer animation.

Certain labour expenditures in the field of computer annimation and special effects may enable a corporation to claim the refundable tax credit for Québec film and television production or the refundable tax credit for film production services.

However, current tax legislation contains a general application rule under which a sub-contractor who is awarded work by another person is not entitled to a refundable tax credit regarding the expenditures relating to such work, when the person awarding such work (the “client”) himself is entitled to a refundable tax credit the cost for him of such work.

Some confusion existed in the initial phases of implementation of certain tax measures relating to the knowledge-based economy, for companies operating in designated sites that are sub-contractors, regarding whether or not they can claim tax credits relating to activities carried out in a designated site, in regard to labour expenditures relating to computer animation and special effects, when the clients claim the tax credits relating to the film and television industry regarding the cost for them of work relating to computer animation and special effects.

To avoid penalizing corporations that carry out their activities in designated sites which believed they could claim their tax credits in such situations, in spite of the general application rule to the contrary, the tax legislation will be amended so that they may claim the specific tax credits relating to carrying out activities in such a site in the course of performing the mandates they receive, even if the corporation which awards the work can itself claim the refundable tax credit for Québec film or television production or the refundable tax credit for film production services.

This change will apply retroactively to March 26, 1997, regarding any corporation which obtained, before the day of the Budget Speech, its first eligibility certificate allowing it to carry out eligible activities in a designated site, provided the corporation had, before the day of the Budget Speech, under a contact concluded with a client before such day, paid salaries allowing the client to claim the refundable tax credit for Québec film or television production or the refundable tax credit for film production services. However, should the control of such a corporation change on or after the day of the Budget Speech, it may no longer benefit from this change for any taxation year ending after the date of such change in control.

2.8.3 Analysis of the consequences of applying certain rules relating to associated corporations

Currently, according to the tax legislation relating to refundable tax credits on R&D salaries, a Canadian-controlled corporation (CCC) may claim, for R&D activities it carries out in Québec or has carried out on its behalf Québec in a taxation year, a refundable tax credit whose rate is equal to 40% if the assets of the corporation are less than $25 million. From $25 million to $50 million of assets, the rate of the tax credit declines linearly, reaching a general rate of 20% when assets amount to $50 million. However, a corporation may elect to claim a super-deduction rather than a refundable tax credit. The rate of this super-deduction ranges from 230% to 460%, depending on the corporation's assets.

To determine whether or not a corporation's assets exceed the limits of $25 or $50 million, the assets of each corporation with which it was associated during the year must be added.

In addition, the rate of the tax credit the corporation is entitled to for a year (or that of the super-deduction) must be applied to the corporation's expenditure limit for the year. In general, this expenditure limit is equal to $2 million, unless the corporation is associated during the year with other CCCs, in which case the expenditure limit must be allocated or shared among the associated CCCs.

Briefly, two corporations may, in particular, be associated if they are controlled, directly or indirectly, in any way whatsoever, by the same group of persons. Accordingly, when two corporations are associated because they are controlled by the same group of persons, this situation requires the application of the provisions described above regarding the aggregation of assets for determining the rate of the tax credit each corporation is entitled to, as well as the sharing of the expenditure limit giving rise to this rate.

Some specific applications of the rules relating to associated corporations may produce undesirable results, in particular in the case where venture capital corporations invest in the capital stock of corporations.

The ministère des Finances is currently carrying out studies and consultations on this matter. Consultations will also be undertaken with the Department of Finance Canada to reach, as far as possible, common solutions, since the tax rules relating to associated corporations are similar in the federal and Québec tax systems.

2.8.4 Designation of a new eligible public research centre

Tax assistance in the form of a refundable tax credit or a super-deduction is currently granted to a taxpayer for R&D activities carried out by an eligible public research centre under an eligible research contract with such centre.

The Centre de valorisation des plantes will be recognized as an eligible public research centre. Such recognition will apply regarding R&D carried out after the day of the Budget Speech, under an eligible research contract concluded after that day.

2.9 Québec Business Investment Companies

The Québec Business Investment Company (QBIC) program, which is the responsibility of Investissement-Québec, is designed to provide SMEs in Québec with access to external sources of financing to ensure their permanent capitalization and long-term development.

In general, a QBIC is a private corporation whose activities consist mainly in acquiring and holding shares of the capital stock of small and medium companies operating in eligible activity sectors. When a QBIC makes an eligible investment, the individuals who are its shareholders can claim a deduction equal to 150% of the cost of the shares they acquired.

Changes will be made to further bolster this program.

2.9.1 Increase in the limit on the investment an eligible corporation may receive

Under existing rules, a corporation in which a QBIC invests cannot, at the time of the investment, receive more than $5 million of eligible investments from one or more QBICs. If a QBIC's investment in a corporation exceeds this amount, it is deemed not to be an eligible investment and entitles the QBIC's shareholders to no tax benefit.

This investment limit, which was set many years ago, may no longer correspond, in some cases, to the amounts required for the investment projects a corporation wants to finance.

Accordingly, to enable QBICs to fully play their role in raising venture capital, this investment limit will be raised to $10 million.

This change will apply regarding an investment made by a QBIC after the day of the Budget Speech.

2.9.2 New eligible activity sector

To assist the financing of corporations operating in the broadcasting sector, the *Regulation respecting Québec Business Investment Companies* will be amended so that a corporation more than 50% of whose activities consist in carrying on a business in this sector, at the time of receiving an investment from a QBIC, is henceforth considered as operating in an eligible activity sector for the purposes of the QBIC program.

This change will apply regarding an investment made by a QBIC after the day of the Budget Speech.

2.9.3 Assets the sole criteria used to determine a corporation's eligibility

Currently, a corporation in which a QBIC proposes to invest qualifies as an eligible corporation if, in particular, its assets or net shareholders' equity, shown in its books and financial statements for its last taxation year ended before the date of the eligible investment, are respectively less than $25 million and no more than $10 million, including the assets and net shareholders' equity of any corporation with which it is associated.

Regarding an investment made by a QBIC after the day of the Budget Speech, the criterion tied to net shareholders' equity will be eliminated. Accordingly, provided the other eligibility conditions are satisfied, only the criterion of the corporation's assets will be considered in determining whether a corporation qualifies as an eligible corporation.

2.9.4 Discretionary power regarding the validation of an investment

Under the existing legislation, Investissement-Québec may refuse to validate an investment if, in its view, the price paid for the shares of an eligible corporation is considerably higher than the value of a common share issued by such corporation, in view of the shareholders' equity of the eligible corporation.

To enhance the ability of Investissement-Québec to adequately protect investors in a QBIC and to satisfy itself of the economic spin-offs from the implementation of a project, it will receive greater powers. More specifically, Investissement-Québec may refuse to validate an investment on the basis of the sharing of risk between the major shareholders of the eligible corporation and the QBIC, if, in particular, Investissement-Québec is unable to obtain a justification for the rate of dilution of the shares a QBIC expects to acquire in an eligible corporation. To justify this rate, Investissement-Québec will decide which items must be taken into consideration.

This change will apply regarding an investment made by a QBIC after the day of the Budget Speech.

2.10 Improvement and streamlining of rules applicable to corporations that carry on an eligible business in the Montréal Foreign Trade Zone at Mirabel

The tax benefits relating to the Montréal Foreign Trade Zone at Mirabel (Mirabel Zone) were introduced in the March 9, 1999 Budget Speech. In general, until December 31, 2009, corporations that carry on a business within this zone, in the fields of international logistics, aircraft maintenance and repair, supplementary professional training in aviation or in the field of light processing, and regarding which the Minister of Finance has issued an eligibility certificate, enjoy tax benefits that take the form of an exemption from income tax, an exemption from the tax on capital and an exemption from employer contrbutions to the Health Services Fund.

These corporations may also claim, during the same period, tax benefits consisting of refundable tax credits regarding the wages paid to their eligible employees and regarding the fees incurred for an eligible customs brokerage contract. In addition, they can claim a refundable tax credit for acquisition costs or lease payments for eligible equipment.

Changes will be made to these tax benefits to extend them for one year and to allow an eligible business to be temporarily located outside the Mirabel Zone.

2.10.1 Tax benefits extended for one year

The existing tax legislation stipulates that the tax benefits associated with the Mirabel Zone will end on December 31, 2009. These tax benefits will be extended until December 31, 2010. Accordingly, the exemptions from income tax, the tax on capital and employer contributions to the Health Services Fund will be extended until December 31, 2010.

Concerning the refundable tax credit on the wages of eligible employees and the refundable tax credit for an eligible customs brokerage contract, the periods associated with the rates and ceilings applicable to these refundable tax credits will be shifted by one year.

Accordingly, concerning the refundable tax credit on the wages of employees, with respect to wages incurred for an eligible employee before January 1, 2002, the amount of the tax credit will be equal, for a taxation year, to 40% of such wages incurred during such year. However, the tax credit will be capped at $15 000 per employee, on an annual basis.

Concerning the wages incurred regarding an eligible employee during the period between December 31, 2001 and January 1, 2005, the amount of the tax credit will be equal, for a taxation year, to 30% of such wages incurred during such year. However, the tax credit will be capped at $12 000 per employee, on an annual basis.

For wages incurred regarding an eligible employee during the period between December 31, 2004 and January 1, 2011, the amount of the tax credit will be equal, for a taxation year, to 20% of such wages incurred during such year. However, the tax credit will be capped at $8 000 per employee, on an annual basis.

In the case of the refundable tax credit for an eligible customs brokerage contract, concerning the fees incurred regarding an eligible customs brokerage contract before January 1, 2002, the amount of the tax credit will be equal, for a taxation year, to 40% of such fees incurred during such year. However, the tax credit will be capped at $30 000, on an annual basis.

Concerning the fees incurred regarding an eligible customs brokerage contract during the period between December 31, 2001 and January 1, 2005, the amount of the tax credit will be equal, for a taxation year, to 30% of such fees incurred during such year. However, the tax credit will be capped at $24 000, on an annual basis.

For fees incurred regrading an eligible customs brokerage contract during the period between December 31, 2004 and January 1, 2011, the amount of the tax credit will be equal, for a taxation year, to 20% of such fees incurred during such year. However, the tax credit will be capped at $16 000, on an annual basis.

Lastly, in the case of the refundable tax credit for the acquisition or leasing of eligible equipment, the assets must be either acquired by the corporation before January 1, 2011, or leased by the corporation under a contract concluded before January 1, 2011.

2.10.2 Temporary location outside the Mirabel Zone

Some projects that would be otherwise compatible with the objectives pursued by the creation of the Mirabel Zone cannot start because there is currently no building within the zone that meets their specific needs.

To enable these projects to get underway immediately, changes will be made to the eligibility rules so that a corporation that carries on a business outside the Mirabel Zone, in Québec, is entitled to the tax benefits relating to the Mirabel Zone.

More specifically, a certificate will not be issued until the corporation has demonstrated, in a business plan it must file with the Société de développement de la Zone de commerce international de Montréal à Mirabel in relation to the eligibility certificate of a business, that no building in the Mirabel Zone meets the operating needs of such business. The corporation will also have to file, with the business plan, a contractual undertaking on its part to occupy a building in the Mirabel Zone as soon as possible. This undertaking may take various forms in view of the specific circumstances relating to improvements or construction of a building required for the operation of such business.

The eligibility certificate of such business will be issued on the condition that the corporation continue to carry on such business in the Mirabel Zone as soon as one or more buildings become available.

Such eligibility certificate will take effect either on the date of the Budget Speech or the date the corporation begins to carry on the business outside the Mirabel Zone, in Québec, whichever is later. Accordingly, the corporation shall be deemed to have carried on the business in the Mirabel Zone from that time until its actual transfer to the Mirabel Zone, which will enable it to claim the tax benefits associated with the Mirabel Zone during such period of temporary location outside the zone.

More specifically, for the purposes of the refundable tax credit for the acquisition or leasing of eligible equipment, the eligible equipment shall be deemed to have been used in the Mirabel Zone during such transitional period, if it was used entirely or almost entirely to earn income from such business during such period and if it continues to be so used by the corporation in carrying on this business after its transfer to the Mirabel Zone.

2.11 Improvements to the maritime policy

Since the May 9, 1996 Budget Speech, many tax measures have been introduced to encourage Québec's shipbuilding industry, including the refundable tax credit for shipbuilding or conversion and the tax holiday for Québec sailors assigned to international transportation of merchandise.

These two measures will be streamlined.

2.11.1 Lower minimum gross tonnage for a ship to be eligible for the refundable tax credit for shipbuilding or conversion

In general, the refundable tax credit for shipbuilding or conversion corresponds, for a taxation year of a corporation which carries on a shipbuilding business in Québec, to an amount equal to 50% of eligible construction or conversion expenditures incurred during the year, in relation to the construction or conversion of an eligible ship.

Currently, to be eligible for the tax credit, a ship must be built or converted in Québec as part of a project for which the ministère de l'Industrie et du Commerce has issued a certificate to the effect that it will constitute a ship with a gross tonnage of at least 100 tons.

To further encourage shipbuilding and conversion in Québec shipyards, the gross tonnage criterion of at least 100 tons will be lowered to at least 50 tons.

This change will apply to eligible construction or conversion expenditures incurred after the day of the Budget Speech.

2.11.2 Tax holiday for Québec sailors

In general, a sailor who holds an eligibility certificate issued by the ministère des Transports and working on a ship operated by an eligible shipowner and assigned to the international transportation of merchandise, can deduct, in calculating his taxable income, an amount equal to 100% of the remuneration received from such shipowner, for the period during which he worked on such a ship. However, this period must be at least 30 consecutive days.

To ensure that the minimum period required for the purposes of this measure more closely reflects assignment periods on such a ship, the minimum period will be reduced to a period of at least ten consecutive days.

This change will apply regarding the remuneration received by an eligible sailor for an assignment period ending after the day of the Budget Speech.

2.12 Increased rates of the refundable tax credit for design made permanent

A refundable tax credit for design consisting of two sections was introduced in 1994 regarding certain expenditures relating to eligible design activities. The first section of this tax credit concerns industrial design or fashion design activities carried out under an external consulting contract. The other section entitles an eligible corporation, under certain rules, to the refundable tax credit for design regarding wage expenditures incurred for designers it employs, for the fashion and furnishings sector.

For an eligible corporation that concludes an external consulting contract, the rate of the tax credit is 20% (up to 40% in the case of an SME[9]) if the external consulting contract is concluded before January 1, 2002, regarding an eligible design activity carried out before January 1, 2003. In the case of the tax credit on wage expenditures, the rate is also 20% (up to 40% in the case of an SME) if the eligible wages are incurred before January 1, 2002. Subsequently, these rates are reduced to 10% (up to 20% in the case of an SME).

To continue to support the innovation initiatives of corporations which make use of design functions, the increased rate currently applicable will be made permanent. Accordingly, the deadlines by which an external consulting contract must be concluded, an eligible design activity carried out or a wage expenditure incurred, as the case may be, will be withdrawn and the rates of up to 40% in the case of an SME, or 20% in the case of other corporations, will apply permanently.

2.13 Improvement to the deduction for depreciation regarding certain assets included in a separate class

Taxpayers who carry on a business in Québec can claim a deduction for depreciation (DFD) regarding assets used in the course of carrying on such business. However, for the year of acquisition, the amount of the DFD regarding the asset is generally limited to half the maximum amount that could otherwise be claimed (the half-year rule).

The tax regulation allows a taxpayer to elect, in certain cases, to include a given asset in a separate class. This separate class election applies regarding certain assets in classes 8 and 10, such as photocopiers, fax machines and telephone equipment, if the cost of such an asset is at least $1 000.

Establishing a separate class has no effect on the rate of the DFD applicable to the asset in question, nor on the half-year rule application for the year in which the asset is acquired. However, this election allows the taxpayer to calculate a separate DFD for the asset included in such separate class. In this way, when the asset is alienated, the amount by which the undepreciated capital cost of the asset exceeds the proceeds of the alienation of such asset can be fully deducted as a final loss.

9 For this purpose, a corporation qualifies as an SME, for a taxation year, if the assets shown in its books and financial statements, for the preceding taxation year, do not exceed $50 million.

2.13.1 Reduction of the threshold from $1 000 to $400 and increase in the deduction for the year of acquisition of an asset

Under the existing rules, the assets described above and whose cost is less than the threshold of $1 000 cannot be covered by such an election. Yet, the cost of such assets may nonetheless be significant for certain taxpayers and their useful life may be short.

Accordingly, the tax regulations will be changed, first, to lower the cost threshold from which a given asset may be included in a separate class and, second, to increase the DFD that can be claimed for the year of acquisition of the asset.

More specifically, the minimum cost required for an asset to be included in a separate class will be reduced from $1 000 to $400. In addition, the half-year rule will no longer apply regarding an asset included in a separate class as a result of such an election.

These changes will apply regarding assets acquired after the day of the Budget Speech.

2.13.2 Addition of manufacturing or processing equipment in certain situations

Under the existing rules, manufacturing or processing equipment allows a taxpayer to claim advantageous tax treatment when it is used in Québec, namely a deduction for depreciation of 100% of its capital cost and a supplementary deduction of 25%. In addition, the half-year rule and the start-up rules rules that generally apply under the tax legislation do not apply regarding such equipment, which is entered in a separate class.

However, to give rise to this advantageous tax treatment, these assets must satisfy certain conditions, in particular they must be new assets at the time the taxpayer acquires them. If these assets do not satisfy these conditions, they give rise to a lower DFD rate and the half-year rule applies.

The tax regulations will be amended to allow manufacturing or processing equipment that does not satisfy the conditions mentioned above to be covered by an election of a separate class, if the cost of such an asset is at least $400. In addition, the half-year rule will not apply regarding equipment included in a separate class because of such an election.

This change will apply regarding assets acquired after February 27, 2000.

2.14 Increase in the deduction limit for certain expenditures relating to a home office

Under the existing rules, expenditures for a home office of an individual can be deducted in calculating the business income of such individual. Similary, the expenditures for a home office of an individual who is a member of a partnership can be deducted in calculating the income of such partnership.

However, these expenditures are deductible only if the use of the space of the residence which is used for an office satisfies certain conditions. In addition, the deduction of such expenditures is limited to 50% of the amount of the expenditures that would otherwise be deductible since, to a large extent, they are incurred by the individual for personal purposes because they relate to the cost he bears to maintain a residence.

Some expenditures for a home office relate to the use for business purposes of the portion of the residence used as an office rather than to the maintenance of the residence itself. Such expenditures include the portion of expenses relating to heating and lighting of the portion of the residence used as an office.

The tax legislation will be amended so that, provided the conditions relating to the use of the portion of the residence used as an office are satisfied, only the expenditures for a home office that relate to the cost for an individual to maintain a residence is 50% deductible from the amount of expenditures that would otherwise be deductible.

In this regard, the expenditures relating to the cost of maintaining a residence will consist of the portion of the following expenditures which relate both to the portion of the residence used for an office and the portion used for personal purposes: maintenance and repair costs, rent, interest on a mortgage loan, property and school taxes, insurance premiums and depreciation.

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

2.15 Improvement of the refundable tax credit regarding solicitation expenditures of international financial centres

A refundable tax credit was introduced in the March 31, 1998 Budget Speech regarding the solicitation expenditures incurred by the operator of an international financial centre (IFC).

In general, this tax credit covers the eligible solicitation expenditures incurred by the operator of an IFC, namely a corporation or a partnership, in the course of carrying on the business or portion of the business recognized as an IFC, and relating to solicitation activities carried on with persons who are not residents of Canada.

More specifically, this tax credit, for a taxation year, is equal to 50% of the eligible solicitation expenditures incurred during such taxation year and the two preceding taxation years. However, the maximum amount of the tax credit, for a given taxation year, is limited to an amount equal to 25% of the eligible fees earned from carrying out new eligible international financial transactions, without exceeding $75 000 calculated on an annual basis.

To further support the solicitation activities of IFC operators, the refundable tax credit for solicitation expenditures will be improved by adding a second component. This component will specifically target solicitation expenditures incurred by the operator of an IFC with a promoter of foreign investment funds, for the purpose of obtaining a foreign investment fund management mandate, enabling new eligible international financial transactions to be brought to Montréal.

Subject to the terms and conditions described below, the rules applicable to this new component of the tax credit will be the same as those applicable to the existing tax credit.

❑ Determination of the tax credit

The tax credit an operator of an IFC may claim for solicitation expenditures relating to a foreign investment fund, for a taxation year, will be equal to 50% of the amount of the eligible solicitation expenditures relating to a foreign investment fund incurred by the operator of an IFC, regarding such investment fund, during such year and the two preceding taxation years.

However, the maximum amount of tax credit an operator of an IFC may claim regarding eligible solicitation expenditures relating to a foreign investment fund, for a taxation year, will be limited to an amount equal to 25% of the eligible fees, for such year, earned from carrying out new eligible international financial transactions relating to such foreign investment fund.

The maximum amount of tax credit an operator of an IFC may claim regarding eligible solicitation expenditures relating to a foreign investment fund, for a taxation year, will also be limited to a fixed amount of $150 000 calculated on an annual basis.

The total amounts of tax credit an operator of an IFC may claim regarding a given foreign investment fund may not exceed $300 000 calculated on a cumulative basis.

For the purposes of calculating this cumulative ceiling, the total of the refundable tax credits previously claimed by each member of a group of corporations associated with each other at any time after the day of the Budget Speech, regarding a given foreign investment fund, will be taken into consideration.

Lastly, the total amount of tax credits the operator of an IFC may claim regarding all eligible solicitation expenditures relating to foreign investment funds may not exceed, for a taxation year, $750 000 calculated on an annual basis.

More specifically, this annual ceiling of $750 000 will be determined on a consolidated basis, by considering all the tax credits to which are entitled, for a taxation year, corporations associated with each other at any time during such year. Accordingly, for a given taxation year of a member of a group of associated corporations, the total tax credits to which each member of the group of associated corporations is otherwise entitled, in relation to a taxation year ending during the taxation year of this member, will be taken into consideration.

❑ Eligible solicitation expenditures relating to a foreign investment fund

An “eligible solicitation expenditure relating to a foreign investment fund” incurred by the operator of an IFC means the lump sum regarding which the Minister of Finance has issued an eligibility certificate, paid by such operator in the course of carrying on the business or the portion of the business recognized as an IFC, to a promoter of foreign investment funds, and which corresponds to the fees required by such promoter to grant a foreign investment fund management mandate to the operator of the IFC.

❑ New eligible international financial transactions

The “new eligible international financial transactions” carried out by an operator of an IFC, for a taxation year, mean the foreign investment funds management activities carried out by the operator of an IFC during such year, which are related to solicitation activities he has previously undertaken during such year on behalf of a promoter of foreign investment funds under a written agreement to supply services. In addition, such eligible international financial transactions must constitute activities which the operator of the IFC, or a taxpayer who is not at arm’s length with such operator, did not carry out on behalf of such promoter of foreign investment funds during the preceding three taxation years.

Furthermore, eligible international financial transactions carried out by an operator of an IFC, during a taxation year, will constitute new eligible international financial transactions, for the purposes of this component of the tax credit, only for the period of 1095 days following the effective date of the agreement for the supply of services under which such transactions will be carried out.

❑ Eligible fees

The "eligible fees" earned from carrying out new eligible international financial transactions, for a taxation year, mean the fees earned by the operator of an IFC for carrying out such activities, for the portion of the period of 1095 days described above which is included in such year.

❑ Promoter of foreign investment funds

A "promoter of foreign investment funds" means an entity which is not a resident of Canada, which is at arm's length from the operator of the IFC to which a management mandate is awarded, and whose activities include the design and creation of investment funds, including research, formulation and distribution of the prospectuses for such funds, registration with the appropriate securities regulatory or oversight bodies, as well as the marketing and organization of the distribution of such funds.

❑ Foreign investment fund

A "foreign investment fund" means an investment fund that has obtained the approval of a regulatory organization of a foreign jurisdiction whose role is similar to that of the Commission des valeurs mobilières du Québec, and whose units are not distributed in Canada during the year regarding which the eligible solicitation expenditures relating to a foreign investment fund were incurred.

❑ Administrative procedures

An operator of an IFC wishing to claim this tax credit, for a taxation year, must enclose with its tax return, for such year, for each foreign investment fund regarding which a tax credit is claimed, a form prescribed by the MRQ, as well as the eligibility certificate issued by the Minister of Finance regarding such foreign investment fund.

Moreover, if, for a given taxation year, a member of a group of associated corporations wishes to claim this tax credit, he will also have to enclose with his tax return, for such year, an agreement, among the members of the group, setting out the member's share, for such year, in the overall annual ceiling of $750 000, as well as his share in the cumulative ceiling of $300 000 regarding a given investment fund.

In addition, he must demonstrate, to the satisfaction of the MRQ, that the eligible solicitation expenditures relating to a foreign investment fund, for which a tax credit is claimed, have been paid, and that new eligible international financial transactions are carried out by the operator of an IFC.

An operator of an IFC will accordingly have to keep appropriate documentation in relation to solicitation expenditures incurred, and the MRQ may require any other information it considers relevant to grant the tax credit claimed by the operator of an IFC.

❑ Operation by a partnership

If an operator of an IFC is a partnership, the amount of the tax credit will be determined with reference to the partnership, but the tax credit will be granted to the members of the partnership, for their taxation year in which the fiscal year of the partnership ends regarding which the tax credit is claimed, in proportion to their respective share of the income or loss of the partnership for such fiscal year.

Moreover, for the purposes of the rules regarding the calculation of the overall ceilings of $300 000 and $750 000 described above, an operator of an IFC which is a partnership will be considered a corporation all of whose voting shares belong to the members of the partnership, in proportion to the distribution among them of the income or loss of the partnership for the fiscal year regarding which the tax credit is claimed.

❑ Application date

This new component of the refundable tax credit will apply regarding eligible solicitation expenditures relating to a foreign investment fund incurred after the day of the Budget Speech and before January 1, 2002, in relation to new eligible international financial transactions carried out before January 1, 2005.

2.16 Refundable tax credit for the creation of investment funds

The March 31, 1998 Budget Speech announced the implementation of tax benefits to encourage the creation of investment funds in Québec. These tax benefits consist of a five-year tax holiday regarding income earned from the administration and management of an eligible investment fund, and a refundable tax credit of an amount, not in excess of $250 000, of up to 50% eligible start-up expenditures incurred regarding such a fund.

To claim these tax benefits regarding an eligible investment fund, an eligible corporation must obtain an eligibility certificate, or an interim certificate, issued by the Minister of Finance. Essentially, these certificates attest that the investment fund for which the certificate has been applied satisfy the various eligibility criteria.

In its current form, the maximum tax credit that can be granted to an eligible corporation for the start-up expenditures of an eligible investment fund, namely $250 000, applies separately regarding each eligible investment fund set up by an eligible corporation. No overall ceiling exists regarding the maximum tax assistance which an eligible corporation may claim, because of this tax credit, regarding the eligible investment funds it sets up.

❑ Introduction of an overall ceiling

To further target the growth of investment funds and encourage eligible corporations to concentrate their development on the growth of their assets under management, an overall ceiling will be introduced for the puposes of the refundable tax credit for the creation of investment funds. More specifically, this ceiling will set a limit of $1 million on the total tax credits an eligible corporation may claim regarding start-up expenditures of eligible investment funds.

For the purposes of calculating this ceiling, the total refundable tax credits previously claimed by each member of a group of corporations associated with each other at any time after the day of the Budget Speech, in relation to the start-up expenditures of eligible investment funds, must be taken into consideration.

Moreover, if, for a given taxation year, a member of such a group of associated corporations wishes to claim a refundable tax credit for start-up expenditures of an eligible investment fund, it must enclose with its tax return, for such year, a statement showing the amount of tax credits it or another member of the group of associated corporations of which it is a member has previously claimed, as well as an agreement, among the members of the group, setting out the share of such member in the balance of the $1-million ceiling for such year.

❑ Application date

This ceiling will apply as of the day following the day of the Budget Speech.

However, for greater clarity, the tax credits relating to the start-up expenditures of an eligible investment fund regarding which an application for an eligibility certificate, or an interim certificate, has been filed with the Minister of Finance no later than the day of the Budget Speech, will not be included in calculating this ceiling. These tax credits will also not be taken into account in the statement referred to above.

2.17 Technical changes concerning the tax on capital

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

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

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

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

2.17.1 Deferred unrealized exchange gains and losses at the end of the year

Current accounting standards stipulate that deferred unrealized exchange gains and losses at the end of the year be shown in the balance sheet as deferred expenses or deferred income.

Under existing tax rules, the deferred income resulting from deferred unrealized exchange gains at the end of the year is shown as a liability in the balance sheet and does not have to be included in calculating a corporation's paid-up capital. In the same way, the deferred expenses resulting from deferred unrealized exchange losses at the end of the year are shown as an asset in the balance sheet and cannot reduce a corporation's paid-up capital.

A debt contracted in foreign currency and which is recorded in Canadian dollars on the balance sheet of a corporation generally includes a variation item resulting from fluctuation in the exchange rate. Since it is an integral part of the debt, this item increases or decreases the debt that must be added to the paid-up capital of a corporation.

To more adequately reflect the overall economic reality of this type of situation for corporations other than financial institutions, the tax legislation will be amended so that the deferred expenses that result from "deferred unrealized exchange losses at the end of the year" may be deducted in calculating the paid-up capital of such a corporation, and the deferred income resulting from "deferred unrealized exchange gains at the end of the year" may be added in calculating paid-up capital.

These changes will apply regarding a taxation year ending after the day of the Budget Speech.

2.17.2 Clarification concerning the inclusion in the calculation of paid-up capital of the book value of assets constituting tangible property

Under existing rules, the paid-up capital of a financial institution generally includes the capital stock, certain reserves and provisions, surplus, including retained earnings, long-term liabilities and half the book value of assets corresponding to tangible property it uses.

The obligation for financial institutions to add, in calculating their paid-up capital, an amount regarding the tangible property they use, was announced in the May 9, 1995 Budget Speech. However, the choice of the expression "used by the financial institution" used in the announcement to qualify the assets of a financial institution that are tangible property, which expression was again employed in the drafting of the legislation that followed the announcement, may have given the impression that the value of certain assets which otherwise are tangible property did not have to be taken into account in calculating the paid-up capital of a financial institution.

The text of the announcement was perfectly clear in conveying the context justifying it, and referred explicitly to the real estate and leasing sector. Accordingly, fiscal policy in this regard was clear.

Consequently, the tax legislation will be amended to ensure that it adequately reflects fiscal policy. More specifically, the reference to the assets of a financial institution which are tangible property it uses will be replaced by a reference to the assets of a financial institution which are tangible property.

This change will apply retroactively regarding a taxation year of a corporation beginning after May 9, 1995. However, it will not apply regarding cases pending before the courts on the day of the Budget Speech, or to notices of objection served on the MRQ no later than that day, if the method of calculation of paid-up capital is contested no later than that day in such cases or such notices, and the grounds of the objection are the items covered by this change.

3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Québec sales tax

3.1.1 Change to the presumption regarding residence in Québec for Canadian residents who have only one permanent establishment in Québec

The Québec sales tax (QST) system provides for certain zero-rating measures with regard to supplies shipped outside Québec. Most of these measures apply when such supplies are made to persons not resident in Québec. However, a person who resides in Canada, outside Québec, and who has a permanent establishment in Québec may not generally benefit from these zero-rating measures given that, under these circumstances, he is deemed to be resident in Québec.

This presumption regarding residence in Québec as it applies to Canadian residents who have only one permanent establishment in Québec stems from the harmonization, on April 1, 1997, of the QST system with the harmonized sales tax (HST) system with regard to the rules governing place of supply applicable at the interprovincial level. This harmonization required a certain number of related changes to the Québec tax system, including the broadening of the presumption regarding residence in Québec to Canadian residents who have a permanent establishment in Québec.

However, broadening the presumption risked creating a competitive disadvantage at the interprovincial level for Québec businesses that make supplies to Canadian residents who have a permanent establishment in Québec, by depriving them of the benefit of the zero-rating measures applicable to supplies shipped outside Québec.

Therefore, the QST system will be changed to reintroduce the presumption regarding residence in Québec that prevailed before this system was harmonized with the HST system. However, this change will be made only for the purposes of the zero-rating measures pertaining to supplies shipped outside Québec.

This change will apply as of the day following the day of the Budget Speech. It will also apply, between March 31, 1997 and the day following the day of the Budget Speech, to Canadian residents who have a permanent establishment in Québec and who, despite being deemed to be resident in Québec, benefited from the zero-rating measures applicable to non-residents in respect of supplies shipped outside Québec.

3.1.2 Improvement of the rebate of tax paid in respect of a new residential unit

The Québec tax system includes a mechanism for the partial rebate of the QST paid in respect of a new residential unit that costs less than $200 000, purchased by an individual or built by him or an intermediary to be occupied as the primary place of residence. In accordance with this mechanism, a rebate equal to 36% of the QST paid may be obtained in respect of a new residential unit that costs $175 000 or less. The rebate decreases progressively with regard to units that cost between $175 000 and $200 000.

Owing to the changes observed in the residential market since this mechanism was introduced into the QST system, the value of a new residential unit providing the individual who purchases, builds or has it built with entitlement to a rebate equal to 36% of the tax paid in this regard will be increased from $175 000 to $200 000. As for the value beyond which no rebate may be obtained, it will be raised from $200 000 to $225 000. Consequently, the maximum rebate that may henceforth be obtained will be roughly $5 642.[10]

To take these changes into account, the $201 294 and $230 050 thresholds set for the purpose of calculating the rebate granted to an individual for the purchase of a new residential unit located on leased land or for the purchase of a share of the capital stock of a cooperative housing corporation will be increased to $230 050 and $258 806 respectively.

An individual who buys a new residential unit will be entitled to a rebate determined on the basis of the new values of $200 000 and $225 000, if the written agreement pertaining to the purchase is concluded after the day of the Budget Speech and the transfer of ownership under the agreement takes place after that day.

The same conditions will apply to an individual who builds or has a new residential unit built, provided his building permit is issued after the day of the Budget Speech.

The new thresholds may be used for calculating the rebate that may be granted to an individual who purchases a new residential unit located on leased land or a share of the capital stock of a cooperative housing corporation, if the written agreement pertaining to the purchase is concluded after the day of the Budget Speech and the transfer of ownership under the agreement takes place after that day.

10 These new values will also apply to the calculation of the rebate an individual may obtain in respect of a residential unit for which he undertakes substantial renovations or has such renovations made.

3.1.3 Clarification concerning the election by a charity not to use the simplified method for calculating net tax

The QST system, like the goods and services tax (GST) system, provides for a simplified method for calculating the net tax of a registered charity. This method was introduced to prevent charities from having to apportion their inputs according to use when they make exempt or taxable supplies. However, under certain circumstances, a charity may elect not to apply the simplified method, particularly when all or substantially all of the supplies it makes are taxable.

However, given that the supply of a financial service is zero-rated under the QST system but exempt under the GST system, certain charities may elect not to apply the simplified method under the Québec system, even though they are obliged to use it under the federal system.

Therefore, the QST system will be changed to allow a charity to elect not to apply the simplified method for calculating net tax only if it is also allowed to do so under the GST system. In addition, if a charity has already elected not to use this method under the QST system even though it was not entitled to do so under the GST system, the election will be revoked by the ministère du Revenu du Québec (MRQ).

For the purpose of calculating the net tax of charities, this measure will apply to reporting periods beginning after the day of the Budget Speech.

3.1.4 Maintenance of the current reference book for calculating the tax payable on the sale of used motor vehicles

To limit tax avoidance with respect to transactions relating to used road vehicles, a measure has been provided for under the QST system to determine the minimum market value of such vehicles for the purpose of calculating the tax payable on their sale. In general, the amount of QST payable is based on the sale price agreed upon by the parties to the transaction or the average wholesale price given in certain reference books, less $500, whichever is higher.

The reference book currently used to determine the minimum market value of used motor vehicles is the *Guide d'évaluation Hebdo (Automobiles et Camions légers)* published by Hebdo Mag Inc. The guide was designated to ensure that the anti-avoidance measure would be applied during the period the Québec government had set aside to proceed with a request for proposals in order to find an evaluation book that would serve as a satisfactory replacement for the old reference books, whose publication had ceased in August 1999.

Following an examination of the proposals received within the scope of this request for proposals, it was decided that the *Guide d'évaluation Hebdo (Automobiles et Camions légers)* published by Hebdo Mag Inc. would be kept as the reference book for determining the minimum market value of used motor vehicles for the purpose of calculating the QST payable on their sale.

3.2 Specific taxes

3.2.1 Introduction of measures concerning the treatment of collection officers' bad debts

The specific taxes on fuel, tobacco products and alcoholic beverages are subject to pre-collection mechanisms that ensure notably simpler, more efficient administration of these taxes.

In accordance with these pre-collection mechanisms, collection officers are generally required, as mandataries of the MRQ, to collect, from persons to whom they make sales other than retail sales of fuel, tobacco products or alcoholic beverages, an amount equal to the specific tax payable on these products. The amounts thus collected or that should have been collected by the collection officers must generally be remitted to the MRQ within the time limits stipulated under the systems providing for the taxation of these products.

To take into account the commercial practices of collection officers, in regard to the terms of payment they offer their customers, the MRQ may grant collection officers, under agreements concluded with them or by way of administrative policies, a refund of an amount equal to the specific tax already remitted but that they are unable to recover from customers whose debts have become bad.

To regularize and standardize the treatment of collection officers' bad debts, the systems relating to the specific taxes on fuel, tobacco products and alcoholic beverages will be changed in order to introduce measures similar to those provided for under the QST system with regard to the treatment of bad debts.

A collection officer who makes a sale other than a retail sale of fuel, tobacco products or alcoholic beverages to a customer with whom he deals at arm's length may, to the extent that it is established that the sale price and the amount equal to the specific tax in respect of the sale have become, in whole or in part, a bad debt, obtain a refund in this regard corresponding to the amount equal to the specific tax he would have remitted but was not able to recover from his customer.

To obtain such a refund in respect of a bad debt, the collection officer will have to submit a request to the MRQ, using the prescribed form, within four years of the day on which the debt was written off in his books of account. He will also be required to fulfil the terms and conditions set by the MRQ.

A collection officer who recovers all or part of a bad debt for which he obtained a refund will have to remit to the MRQ an amount calculated using the formula established by the department, no later than the last day of the month following the month in which he recovered all or part of the bad debt.

Considering the impact that the introduction of these new measures might have on certain provisions of the systems relating to the specific taxes on fuel, tobacco products and alcoholic beverages, these systems will be changed accordingly.

All of these changes will apply to sales other than retail sales of fuel, tobacco products and alcoholic beverages made after the day of the Budget Speech.

3.2.2 Changes relating to the reduction of the specific duty and tax applicable to beer sold by microbreweries

As a rule, the rates of the specific duty and tax applicable to beer sold in Québec are equal to 0.04 cents per millilitre. However, reduced rates are applicable to beer brewed in Québec by a brewer whose world-wide volume of beer sold during the previous calendar year by himself, a brewer with whom he is associated pursuant to the *Taxation Act* or a brewer whose business he continued to carry on does not exceed 200 000 hectolitres. The reduction is equal to 50% on the first 25 000 hectolitres of beer sold in a given calendar year for consumption in an establishment or elsewhere, and to 25% on the next 50 000 hectolitres sold in this manner.

To take into account the development of the activities of microbreweries since the implementation of the reduction of the specific duty and tax applicable to beer, the current rates of reduction will be increased and their application will be relaxed.

The 50% reduction on the first 25 000 hectolitres of beer sold in a given calendar year for consumption in an establishment or elsewhere will be raised to 67%, while the 25% reduction on the next 50 000 hectolitres sold in this manner will be increased to 33%. In addition, the volume of beer sold, to which the 33% reduction will apply, will be increased from 50 000 to 125 000 hectolitres. Consequently, the rates of the specific duty and tax will be equal to 0.0132 cents per millilitre on the first 25 000 hectolitres of beer sold and 0.0268 cents per millilitre on the next 125 000 hectolitres.

In addition, the maximum volume of beer sold world-wide during a given calendar year to which a brewer may apply the reduced rates will be raised from 200 000 to 300 000 hectolitres.

These changes will apply to beer sold by a brewer after the day of the Budget Speech.

3.2.3 Change to the tax structure of the pari mutuel

At present, a person who makes a bet in Québec under a *pari mutuel* system on a horse race held at a race track in or outside Québec, must, when he places his bet, pay a tax equal to the amount obtained by multiplying the amount of the bet by a rate set on the basis of the number of winning horses included in the bet and the overall average of stakes for each race card at the race track during the calendar year preceding the date of the race on which the bet is placed.

To simplify the administration of the tax on the *pari mutuel* for Québec race tracks and thereby reduce the costs associated with the collection of the tax by race tracks, the tax structure of the *pari mutuel* will be changed so that only two tax rates are applicable to a bet. These rates will henceforth be set solely on the basis of the number of winning horses included in the bet.

Consequently, a person who makes a bet under a *pari mutuel* system will have to pay in respect of his bet a tax equal to the amount of the bet multiplied by a rate of 4% when the bet includes a choice of only a single winning horse, and by a rate of 10% when the bet includes a choice of two or more winning horses.

This measure will apply to bets placed by persons after March 31, 2000.

4. OTHER FISCAL MEASURES

4.1 Creation of a fund to support young people and job creation

During the *Sommet du Québec et de la jeunesse* (Québec Youth Summit) held last February, the government promised to help constitute a $240-million fund to support young people and job creation (Youth Fund).

The Youth Fund, which will be managed by representatives appointed by the main partners involved in the Summit, will help finance measures to foster the social, community, cultural and professional inclusion of young people.

The financing of the Youth Fund will be ensured, on the one hand, by a government contribution and, on the other hand, by a contribution from the private sector. The private sector's participation in the Fund will take the form of a corporate contribution.

❑ Terms and conditions of the contribution

Any corporation carrying on a business and having an establishment in Québec will be liable to make a contribution to the Youth Fund.

More specifically, the contribution payable by a corporation for a taxation year will equal 1.6% of the income tax payable by that corporation for that year. In addition, a corporation liable to pay the capital tax applicable to financial institutions for a taxation year will also have to pay, for that year, an amount equal to 1.6% of the capital tax payable by the corporation for that year.

❑ Contributions collected

The ministère du Revenu du Québec (MRQ) will remit to the Youth Fund to be created all the amounts collected as contributions.

❑ Date of application

The contribution to the Youth Fund will be payable in respect of any taxation year or part of a taxation year included in the three-year period beginning on the day following the day of the Budget Speech.

Moreover, the tax instalments of the corporations liable to pay a contribution to the Youth Fund will be adjusted as of July 1, 2000 to take this contribution into account.

4.2 Advance recognition of Québec prescription drug insurance premiums as medical expenses

In general, anyone whose coverage is provided by the Régie de l'assurance-maladie du Québec during a year must pay a premium to fund the Québec prescription drug insurance plan. The amount of this premium is determined in the income tax return filed for that year and is usually payable at that time.

Despite the fact that the amount paid as a premium to the Québec prescription drug insurance plan is an eligible medical expense for determining the refundable or non-refundable tax credit for medical expenses, taxpayers are not usually authorized to take this premium into consideration when calculating either of these tax credits in their income tax returns.

In fact, since the premium payable for a given year under the Québec prescription drug insurance plan is usually paid during the following year, once the amount has been determined in the income tax return filed for that year, it cannot generally give entitlement to the various tax credits for medical expenses.

In order to enable a greater number of taxpayers to include the Québec prescription drug insurance premium in their eligible medical expenses in the year for which the premium is payable, the tax legislation will be amended so that the premium is deemed paid on December 31 of the year to which it applies.

Thus, since the medical expenses that qualify for the tax credits for a given taxation year must, generally, have been paid during a 12-month period ending during the year, taxpayers who want to take advantage of this presumption need only choose a 12-month period that includes December 31 of that year.

This change will apply beginning in the 2000 taxation year.

4.3 Possibility for a registered retirement income fund to hold shares in a labour-sponsored fund

In principle, under the *Act to establish the Fonds de solidarité des travailleurs du Québec (FTQ*) and the *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi*, only a natural person can acquire or hold a class "A" share issued by the Fonds de solidarité des travailleurs du Québec (FSTQ) or a class "A" or class "B" share issued by Fondaction.

However, a natural person can transfer these shares to a trustee and a trustee can acquire them from a natural person under a registered retirement savings plan (RRSP) of which the person or his spouse is the annuitant.

Moreover, the terms and conditions applicable to the redemption of FSTQ and Fondaction shares are such that, generally, a 65-year-old can redeem a share issued by these labour-sponsored funds only if the share was acquired at least 730 days beforehand.

Since the incorporating acts of the FSTQ and Fondaction do not authorize trustees of a registered retirement income fund (RRIF) to hold shares in these labour-sponsored funds, taxpayers whose RRSPs mature are prevented from transferring any such shares they hold in their RRSP to an RRIF. This restriction, combined with the 730-day holding rule discourages taxpayers whose RRSPs will mature in less than two years from acquiring shares in these labour-sponsored funds.

FSTQ and Fondaction shares, however, are eligible investments from a fiscal point of view, both with respect to a trust governed by an RRSP and to one governed by an RRIF.

In order to enable taxpayers to acquire shares in labour-sponsored funds over a longer period within their RRSP and to keep them when their plan matures, the *Act to establish the Fonds de solidarité des travailleurs du Québec (FTQ*) and the *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* will be amended to authorize the transfer of FSTQ class “A” shares and Fondaction class “A” and class “B” shares held in an RRSP or even in another RRIF to the trustee of an RRIF.

More specifically, such a transfer will not give entitlement to the tax credit for contributions to a labour-sponsored fund.

These changes will apply to a share transferred to an RRIF after the day of the Budget Speech.

4.4 Compensations in lieu of taxes on the immovables of recognized international organizations

The Québec government has introduced a policy to promote the location of international organizations in Québec. Under this policy, it grants international governmental and non-governmental organizations a series of advantages designed to help them carry out their mandates and their activities.

For instance, the Québec government may exempt from all municipal and school real estate taxes the immovables of an international organization that are used exclusively to carry out its mandate, and exempt the organization itself from any personal tax or municipal compensation it could be required to pay because it is the owner, lessee or occupant of an immovable, except those levied separately and collected in payment of services rendered.

Before these exemptions are applied, an agreement must be reached with the Minister of International Relations, acting on behalf of the government, one of the effects of which is to recognize for that purpose the international organization and any immovable intended exclusively for the carrying out of its mandate.

Once this recognition has been received, the *Act respecting municipal taxation* stipulates that the government may, to the extent and on the conditions it determines, undertake to pay to the local municipality or school board an amount to stand in lieu of any tax or compensation of which it is deprived because of the exemptions granted in this respect.

According to the applicable regulations, a local municipality or a school board can obtain such compensation for a given fiscal year only if it claims it no later than December 31 of the following fiscal year.

This condition could deprive local municipalities and school boards of compensations in lieu of taxes when the recognition of an international organization and any immovable used exclusively to carry out its mandate is retroactive to a date prior to the beginning of the fiscal year preceding the fiscal year during which the recognition is obtained.

Moreover, an agreement should soon be reached between the Minister of International Relations, acting on behalf of the government, and an international organization, and the resulting recognition of that organization and any immovable used exclusively to carry out its mandate will be retroactive over more than one year.

In order to keep local municipalities and school boards from losing tax receipts because of the retroactive effect the government gives some of the agreements is concludes with international organizations, changes will be made to the applicable regulations.

More specifically, these changes will enable a local municipality or a school board, depending on the case, to claim no later than December 31 of the fiscal year following the one during which the international organization and any immovable used exclusively to carry out its mandate is recognized compensation in respect of an amount of which it was deprived for that fiscal year or a preceding fiscal year because of an exemption the application of which goes back to the date on which the recognition took effect.

To that end, any compensation in lieu of taxes payable in respect of a fiscal year previous to the fiscal year preceding the one during which recognition was granted will bear interest at the rate in force under section 28 of the *Act respecting the ministère du Revenu* with respect to refunds.

Because of these changes, the estimates for the ministère des Affaires municipales et de la Métropole will be increased by $1.2 million in 2000-2001.

4.5 Consequential change resulting from the measure on certain employee securities options

In general, an employer must pay, for a given year, a contribution to the Health Services Fund (HSF) based on the salary he paid to his employees during the year. In this respect, the notion of salary refers to any remuneration for an office or employment and includes, in particular, the taxable benefits granted to employees in cash or in kind, the value of which must be included in the calculation of their income.

Under existing tax legislation, an employee who benefits from a securities option (with respect to shares in a corporation or units in a mutual fund trust) granted by his employer must include in the calculation of his income, as a benefit, an amount equal to the difference between the value of the securities at the time of their acquisition and the amount paid or to be paid to acquire both the securities and the right to acquire them.

The value of this benefit must be included in the calculation of the employee's income for the year during which the securities are acquired, except when the stock option is granted to an employee by a Canadian-controlled private corporation (CCPC), in which case the value of the benefit must be included in the calculation of the employee's income for the year in which he disposes of the stock.

On February 28, 2000, the federal Minister of Finance tabled in the House of Commons a Notice of Ways and Means Motion to Amend the *Income Tax Act* so that, in certain circumstances, it will be possible to defer the taxation of a benefit resulting from the exercise of a securities option given an employee of a body other than a CCPC.

In this respect, Québec's tax legislation and regulations will be amended in order to incorporate this measure. However, this measure will be adopted only after the approval of any federal law arising from this notice of motion, taking into account technical amendments that might be made prior to the approval, and will apply on the same dates as for the purposes of federal income tax.

The possibility for an employee of deferring the taxation of the value of a benefit resulting from the exercise of a securities option in the year of its disposition will change the tax base on which the employer's contribution to the HSF is normally calculated for the year in which the securities were acquired.

To preserve the tax base on which the employer's contribution to the HSF is based for the year, the tax legislation will be amended in order to deem that, despite the deferral of the moment of inclusion, in the calculation of the employee's income, of the value of the benefit derived from the exercise of a securities option, this value is included in the calculation of his income for the year in which he acquired the security.

This change will apply in respect of the acquisition of a stock after February 27, 2000 under a convention according to which a corporation, other than a CCPC, or a mutual fund trust agrees to sell or issue some of its securities, or the securities of another corporation or trust with which it does not deal at arm's length, to one of its employees or to an employee of a corporation or trust with which is does not deal at arm's length.

4.6 Tax on telecommunications, gas and electricity

In general, a property tax is collected by municipalities regarding immovables within their territory. For this purpose, municipalities draw up a real estate assessment roll setting out the value of immovables that will be used for the purposes of calculating the property tax (regular system).

For various reasons of convenience and fairness, immovables which belong to certain networks, namely natural gas distribution and telecommunications networks, as well as electrical power production, transmission or distribution networks, are excluded from the regular system and subject to a separate system. Under this separate system, the operator of such a network must pay the MRQ an amount in lieu of property taxes on these immovables (TGE tax) most of the proceeds of which is remitted to the municipalities.

4.6.1 Retention of the proceeds of the tax by the government

As explained in greater detail in section 3, the government will retain the revenue from the TGE tax collected as of January 1, 2001.

4.6.2 Relaxation of the tax payable by operators of certain networks

The immovables which are part of an electrical power production, transmission or distribution network are generally subject to the separate system and the operator of such a network is subject to the TGE tax. This tax is calculated for each fiscal year of the operator, according to its gross taxable income earned, in particular, from the sale of electrical power for consumption in Québec.

On November 22, 1996,[11] it was announced that a declaratory clarification would be made to the *Act respecting Municipal Taxation.* This declaratory clarification was intended, among other things, to confirm that any person producing electrical power in Québec and supplying such power to an operator of an electricity distribution network in Québec is subject to the TGE tax, even if such person does not operate a "network" as that term is commonly understood.

In view of the declaratory nature of this clarification, it applied, with exceptions, to the taxation years for which the MRQ could validly reassess the TGE tax and produce a new assessment or establish a supplementary assessment, depending on the case.

The declaratory nature of this clarification may have caused certain inconveniences to new operators of small electrical generating stations, in particular because the application period of the clarification coincided with that of a government program promoting the development of small electrical generating stations.

To remedy these inconveniences, the time element of the clarification made on November 22, 1996 will be scaled back. More specifically, this clarification will only apply as of the date it was announced, i.e. November 22, 1996.

Accordingly, for persons operating a facility used to produce electrical power and who are deemed to operate an electricity network, only the gross taxable income relating to the period after November 22, 1996 will give rise to payment of the TGE tax. For this purpose, for the fiscal year of such persons that included November 22, 1996, the amount of gross taxable income will be calculated in proportion to the number of days after November 22, 1996 and included in such fiscal year.

Consequently, in relation to the period preceding November 23, 1996, the MRQ may remit the duties, interest and penalties paid or payable by the persons covered by this relief measure. The funds required for this purpose will be taken from the tax revenue collected under the *Taxation Act*.

11 Ministère des Finances du Québec Information Bulletin 96-5.

4.7 Mining Duties System

Under the *Mining Duties Act* (MDA), a mining operator must pay mining duties equal to 12% of his annual profit.

To that end, an operator's annual profit is determined by subtracting from the market value of the mineral substances sold or used by the operator the aggregate of the operating expenses incurred to obtain that value and the amounts related to certain allowances specifically provided for under the MDA.

4.7.1 Changes to the method of calculating the gross value of the annual output

Under existing rules, an operator must include in the calculation of his annual profit for a fiscal year the gross value of his annual output for such fiscal year.

To this end, the gross value of an operator's annual output for a fiscal year is the actual value of the mineral substances and, where applicable, of the processing products, derived from the operator's mining operation that are alienated or used by him, in the fiscal year, at the market price at the time of their alienation or use. However, the actual value of the mineral substances and processing products does not include a gain or loss resulting from a hedging or speculative transaction.

Existing rules therefore stipulate the moment at which the output must be included in the annual profit, i.e. at the time of alienation or use, and also indicate the value to be used to establish the annual profit.

However, these rules can be difficult to apply for certain mining operators. In fact, operators must establish their annual profit on a different basis from that used in their financial statements. In addition, the amount taken into consideration in calculating the annual profit for the application of the MDA may be different from the amount considered for the same purpose in the financial statements. This is so when the market value at the time of alienation differs from the value actually received under the sales contract.

Accordingly, the MDA will be amended to simplify its application for mining operators and to more adequately recognize in the calculation of the operator's annual profit the value actually obtained when a mineral substance or, if applicable, a processing product is alienated.

More particularly, a mining operator will henceforth be able to calculate his annual profit using the same method he uses to prepare his financial statements. The method chosen must comply, however, with generally accepted accounting principles.

Furthermore, a mining operator who has already used a given method to calculate his annual profit for a previous fiscal year must use the same method for the following fiscal year unless he adopts the other method allowed by the MDA, with the authorization of the Minister of Natural Resources and under the conditions set by that Minister.

Moreover, the impact of this change in method for a given fiscal year must be considered so that such a change will not give rise to an inappropriate calculation of the operator's annual profit for that fiscal year. More particularly, an adjustment must be made to the calculation of the annual profit to take into account the value of the mineral substances and processing products held at the end of the preceding fiscal year and considered in the calculation of the annual profit of such year.

Thus, if a mineral substance or, where applicable, a processing product is alienated, the value used to determine the annual profit will be the value actually received under the sales contract.

If a mineral substance or, where applicable, a processing product is used by an operator during a fiscal year, he must continue to include its actual value, i.e. the market price at the time of use, in his annual profit for that fiscal year.

More specifically, the rule according to which the actual value of mineral substances and processing products does not include a gain or a loss derived from a hedging or speculative transaction will continue to apply. In such a case, the market value at the time of alienation will be used.

The changes will apply to the fiscal year of a mining operator that starts after the day of the Budget Speech. These changes may also apply to the fiscal year of a mining operator that includes the day of the Budget Speech if the mining operator makes the election.

4.7.2 Change in the definition of mineral substance

Under the MDA, the definition of mining operation specifically excludes work relating to the extraction of a mineral substance the well head value of which is subject to the royalty referred to in section 204 of the *Mining Act*.

Furthermore, the definition of mineral substance specifically includes fossilized organic substances, i.e. certain mineral substances subject to the royalty mentioned above.

The actual structure of the MDA could therefore leave the impression that expenses related to a mineral substance the head value of which is subject to the royalty referred to in section 204 of the *Mining Act* are eligible expenses under the MDA when they are attributable to work that precedes the extraction of such a mineral substance, whereas income from such substances are not subject to a mining duty under the MDA.

In order to avoid any ambiguity in this respect, the MDA will be clarified with respect to the deductibility, in the calculation of the operator's profit or annual loss, of expenses in respect of a mineral substance the well head value of which is subject to the royalty referred to in section 204 of the *Mining Act*.

More particularly, the definition of mineral substance will be amended to exclude specifically a mineral substance the well head value of which is subject to the royalty referred to in section 204 of the *Mining Act*. As a corollary, the reference to section 204 of the *Mining Act* in the definition of mining operation will be withdrawn.

This amendment will apply with respect to the fiscal year of an operator ending after May 12, 1994. However, it will not apply with respect to cases pending before the courts on the day of the Budget Speech, or with respect to notices of opposition served on the Minister of Natural Resources no later than that day, when the method of calculating the profit or annual loss is being contested no later than that day in such cases or such notices, and the appeal is based on the elements that are the subject of the amendment.

4.7.3 Technical change concerning the additional depreciation allowance

The additional depreciation allowance was introduced in the Budget Speech of March 25, 1997. Briefly, this additional depreciation allowance is equal to 15% of the capital cost of assets used in processing that were put into service after March 25, 1997 and before April 1, 1998 and do not replace other assets used for processing. However, the total capital cost of such assets must exceed $300 million for a corporation to claim this additional depreciation allowance.

Furthermore, in that same Budget Speech, changes were made to the definition of assets used in processing as it affected assets used for storage activities, for tailings heaps and for supplying energy to an ore processing plant.

The combined effect of these changes and of the restriction with respect to replacing certain assets used in processing was to not recognize certain investment projects that, in point of fact, far surpassed the minimum threshold of $300 million required if a mining operator was to take advantage of the additional depreciation allowance.

Since the additional depreciation allowance was designed to recognize the importance of investment projects in the mining sector, this allowance will be changed.

More particularly, the assets taken into consideration in determining whether the minimum $300-million threshold has been reached and with respect to which the mining operator can benefit from the additional depreciation allowance will be those assets giving entitlement to a depreciation allowance rather than those used in processing. To this end, the assets giving entitlement to a depreciation allowance and acquired during the period contemplated by this additional allowance will be assets of the third class, i.e. assets acquired after May 12, 1994.

This change will apply to assets acquired after March 25, 1997 and before April 1, 1998, that is, in the period during which such assets had to be acquired for the additional depreciation allowance to apply.

4.7.4 Possibility of waiving or cancelling certain amounts

Under existing rules, the Minister of Natural Resources cannot waive, in whole or in part, any interest, penalty or charge provided for in the MDA, even if the interest is the result of an error made by the ministère des Ressources naturelles. In addition, he cannot cancel such amounts.

Furthermore, under the *Act respecting the ministère du Revenu* (AMR), the MRQ can waive such amounts payable under a fiscal law and can also cancel them. In such cases, the minister's decision is not subject to opposition or appeal. Moreover, a statistical summary of these waivers and cancellations must be tabled each year before the National Assembly within the first 15 days of the following session.

The MDA will be changed to incorporate rules similar to those in the AMR.

Consequently, the Minister of Natural Resources will be able to waive, in whole or in part, any interest, penalty or charge provided for in the MDA. He will also be able to cancel such amounts in whole or in part. In such cases, the decision of the Minister will not be subject to opposition or appeal. In addition, a statistical summary of these waivers and cancellations will have to be tabled each year before the National Assembly within the first 15 days of the following session.

The Minister of Natural Resources will be able to waive or cancel such amounts after the day of the Budget Speech.

5. FEDERAL LEGISLATION AND REGULATIONS

5.1 Federal Budget Speech of February 28, 2000

On February 28, 2000, the federal Minister of Finance tabled, in the House of Commons, Supplementary Information, as well as a Notice of Ways and Means Motion to Amend the *Income Tax Act* and a Notice of Ways and Means Motion to Amend the *Excise Tax Act*. Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, the measures will be adopted only after the approval of any federal law arising from these notices of motion or after the adoption of any federal regulation arising from the supplementary information, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. The measures will apply on the same dates as for the purposes of federal income tax and the federal tax system.

5.1.1 Measures concerning the Income Tax Act

❑ Measures retained

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

1. the capital gains inclusion rate (BR 9 (a), (c), (d) and (e));[12]
2. deferred stock option benefits (BR 10);
3. the capital gains deferral in respect of certain small business investments (BR 11);
4. the disability tax credit (BR 14);
5. the medical expense tax credit (BR 17);
6. attendant care expenses (BR 18);
7. the child care expense deduction (BR 19);
8. personal-use property (BR 20);
9. the charitable donations tax credit (BR 21);

12 The references in parentheses correspond to the number of the budget resolution in the Notice of Ways and Means Motion to Amend the *Income Tax Act* tabled on February 28, 2000.

10. donations of ecological gifts, except that the value of the gift will be established by the Québec Minister of the Environment and appeals from this determination will be made to the Court of Québec (BR 22);

11. donations of stock option shares, except that the measure will apply to gifts made after the day of the Budget Speech and before January 1, 2002 (BR 24);

12. scholarships, fellowships and bursaries, subject to a general application (this measure is presented in detail in sub-section 1.9.2) (BR 25);

13. the rules governing thin capitalization (BR 26);

14. non-resident-owned investment corporations (BR 27);

15. the weak currency debt (BR 28 to 30);

16. foreign tax credits (BR 32 and 33);

17. foreign exploration and development expenses (BR 34 to 41);

18. the communication of taxpayer information to a police officer (BR 44(b));

19. the capital cost allowance system, particularly with respect to the application of the separate class election for manufacturing and processing equipment (subject to the characteristics given in detail in sub-section 2.13.2).[13]

❑ Measures not retained

Some measures have not been retained because they do not correspond to the features of Québec's tax system or because Québec's tax system does not contain corresponding provisions. This applies to the measures on the re-introduction of full indexing (BR 1 to 3), the individual surtax (BR 5), the tax reduction for corporations (BR 7), the accelerated tax reduction for small business corporations (BR 8), the surtax on income not earned in a province (BR 12), the limit in respect of foreign property that may be held by certain deferred income plans (BR 13), government assistance for R&D (BR 31) and the tax rate for manufacturing and processing (BR 42).

13 Annex 7, Tax Measures: Supplementary Information and Notices of Ways and Means Motions tabled on February 28, 2000, pages 260 to 264.

Other measures have not been retained because Québec's tax system is satisfactory in this regard. This applies to the measures relating to the reduction of the tax payable by individuals (BR 4), the Canada child tax benefit (BR 6), the supplement for a child with a disability (BR 15), the transfer of the unused portion of the disability tax credit (BR 16), hindering a federal tax official (BR 43) and communication of taxpayer information to a statistical agency of a province (BR 44(a)).

Furthermore, in principle, the measure relating to the reduction of the capital gains inclusion rate with respect to the donation of certain securities (BR 9(b)), cannot be adopted because Québec tax legislation did not contain, at February 28, 2000, any measure providing for inclusion, at a rate of 37½%, of capital gains on the donation of certain securities. However, since such a measure will be incorporated into tax legislation for a gift of securities made after the day of the Budget Speech (this measure is described in detail in sub-section 1.5.3), the new inclusion rate of 33⅓% will be identical to that used in the federal legislation for the corresponding measure.

An announcement will be made later with regard to the measure relating to the offsetting of interest on personal tax overpayments and underpayments (BR 23).

5.1.2 Measures concerning the Excise Tax Act

In accordance with the principle of substantial harmonization of the Québec sales tax (QST) and the goods and services tax (GST) systems, Québec's tax system will be generally harmonized with the federal tax system, subject to Québec's specific features and taking the provincial context into account.

❑ Measures retained

The QST system will be amended to incorporate, with adaptations based on its general principles, the federal measures relating to:

1. drop shipments (BR 18);[14]

2. the new rental property rebate (BR 21 to 35); the election provided for in section 224.1 of the *Act respecting the Québec Sales Tax* will be maintained, and its exercise will not interfere with the possibility of obtaining this new rebate;

3. the provision of information to the police (BR 51);

14 The references in parentheses correspond to the number of the budget resolution in the Notice of Ways and Means Motion to Amend the *Excise Tax Act* tabled on February 28, 2000.

4. non-taxable importations;[15]

5. the Exporters of Processing Services Program.[16]

❑ Measures not retained

Other federal measures have not been retained because Québec's tax system is satisfactory in this regard. This applies to the measures relating to jeopardy assessment and collection (BR 36 to 50) and to hindering a tax official (BR 52).

An announcement will be made later with regard to federal measures relating to export distribution centres (BR 1 to 17) and export trading houses (BR 19 and 20).

5.2 News releases issued by the federal Department of Finance

5.2.1 News release issued on August 12, 1999, concerning multi-employer pension plans

On August 12, 1999, the federal Minister of Finance issued a news release[17] proposing changes to improve the operation and the fairness of the GST and the harmonized sales tax system in the area of multi-employer pension plans.

In accordance with the principle of substantial harmonization of the Québec sales tax (QST) and GST systems, Québec's tax system will be generally harmonized with the federal tax system, subject to Québec's specific features and taking the provincial context into account.

Therefore, the QST, like the GST, will be changed to allow a trust governed by a multi-employer pension plan to claim a rebate for otherwise unrecoverable tax incurred on expenses relating to the plan.

However, since the 33% rebate rate for the GST was based on rebates that could be obtained for expenses related to single-employer plans where only the employer is generally entitled to rebates as a result of the exemption for financial services supplied by the trust, the QST rebate rate will be set at 100% instead to take into account the zero-taxing of financial services under the Québec tax system.

15 Annex 7, Tax Measures: Supplementary Information and Notices of Ways and Means Motions tabled on February 28, 2000, page 267.

16 *Ibid*., page 268.

17 Federal Department of Finance news release 99-072.

Furthermore, unlike the GST system, the QST system will not provide for any exceptions for multi-employer pension plans to which 10% or more of the employer contributions are made by listed financial institutions.

These changes to the QST system will be adopted only after the approval of any federal law arising from news release 99-072, taking into account technical amendments that might be made prior to the approval of the law, and they will apply on the same dates as for the purposes of the GST system.

5.2.2 News release issued on November 30, 1999

On November 30, 1999, the federal Minister of Finance issued a news release[18] announcing draft technical amendments to the *Income Tax Act*. These technical amendments include the legislative texts required to implement various fiscal measures already announced in federal Department of Finance news releases.

Although the Québec ministère des Finances has already made its position known on a number of the specific measures announced in these technical amendments, it is advisable, on the one hand, to indicate that, in general, Québec's legislation and regulations will be amended to incorporate, with adaptations based on their general principles, most of the amendments proposed in the draft federal bill. However, they will be adopted only after the approval of any federal law arising from this draft bill, taking into account the technical amendments that might be made prior to the approval of the law and will apply on the same dates as for the purposes of federal income tax.

On the other hand, some of the proposed amendments will not be retained because they do not correspond to the features of Québec's tax system or because Québec's tax system does not contain corresponding provisions or is satisfactory in this regard. This is true for the federal measures relating to:

— travel expenses for certain part-time teachers or professors (17 in part);[19]

— tax credit for in-home care of a relative (32);

— the education tax credit (34);

— the unused tuition and education tax credit (35);

— the Canadian film or video production tax credit (37);

— the film or video production services tax credit (38);

18 Federal Department of Finance news release 99-102.

19 The references in parentheses correspond to the sections of the draft technical amendments to the *Income Tax Act* made public on November 30, 1999.

— the investment tax credit (39);

— the transitional rule on the refundable dividend tax on hand (40);

— the addition of a provision applicable to national arts service organizations (45);

— refunds of tax overpayments (47);

— the tax on Old Age Security benefits (48);

— the additional tax payable by life insurance corporations (49);

— the tax payable by the recipient of an ecological gift (50);

— the amendments to Part XIII (51 and 52);

— collection restrictions (53);

— the presumption for the application of Part IV (54(2));

— the provision of information relating to a registered charity (57);

— the correction made to a coming-into-force clause for certain rules respecting dual residence (63).

Furthermore, the harmonization measures stipulated in Québec ministère des Finances Information Bulletin 99-1 dated June 30, 1999 will be maintained for the measures dealing with the remuneration of emergency service volunteers (2, 16 et 17 in part) and ecological gifts that are servitudes or covenants (11, 30 et 33(2) et (4)). More specifically, the measure on the calculation of the adjusted cost base of a servitude on ecologically sensitive land and of the land thus encumbered (11) will be incorporated into the Québec tax system as though the servitude and the land to which it applies were not two separate assets.

5.2.3 News release issued on December 2, 1999

On December 2, 1999, the Secretary of State for International Financial Institutions, acting on behalf of the federal Minister of Finance, issued a news release[20] announcing a detailed Notice of Ways and Means Motion containing measures to amend the *Excise Tax Act* and other acts, most of which were announced in news releases issued earlier by the federal Department of Finance.

20 Federal Department of Finance news release 99-104.

❑ Measures concerning the *Excise Tax Act*

The decisions to harmonize or not to harmonize the QST system with the GST system have already been announced for most of the amendments proposed in this notice of motion. However, the Québec ministère des Finances has not yet made its position known on some of the new measures it contains that were specifically announced by the federal Department of Finance on June 4[21] and December 2, 1999.

In accordance with the principle of substantial harmonization of the QST and the GST systems, the Québec system will be generally harmonized with the federal tax system with respect to most of these new measures, subject to Québec's specific features and taking the provincial context into account.

The Quebec system will be amended to incorporate, with adaptations based on its general principles, the federal measures announced on June 4, 1999 relating to:

— oil, gas and electricity industries;

— non-resident and place of supply issues, except with respect to the amendment proposed in section 215.1 of the *Excise Tax Act*;

— leases of tangible personal property, except with respect to the harmonized sales tax transition rule for specified motor vehicle leases;

— financial services, except with respect to the amendment proposed in subsection 263.01(3) of the *Excise Tax Act*;

— real property;

— charities;

— administration and enforcement, but only with respect to the administration of employee/partner rebates, alternative arguments in support of an assessment, property transferred to a non-arm's length party, court costs and the proposed amendment to subsection 327(3) of the *Excise Tax Act*;

— prescribed taxes excluded from consideration.

21 Federal Department of Finance news release 99-050.

Québec's tax system will also be amended to incorporate, with adaptations based on their general principles, the federal measures announced on December 2, 1999 relating to:

— the rebate for multi-employer pension plans;

— the sale of an account receivable;

— supplies by charities for the relief of poverty, suffering or distress.

These harmonization measures will be adopted only after the approval of any federal law arising from the new measures announced on June 4 and December 2, 1999, taking into account technical amendments that might be made prior to the approval of the law. They will apply on the same dates as for the purposes of the federal system, except with respect to the measures applicable since January 1, 1991 which, for the purposes of the Québec system, will have effect as of July 1, 1992.

The other federal measures announced on June 4 and December 2, 1999 will not be retained because they do not correspond to the features of the Québec system or because the Québec system does not contain corresponding provisions or is satisfactory in this regard.

❑ Measures concerning other federal acts

Several measures contained in the Notice of Ways and Means Motion of December 2, 1999 deal with federal acts other than the *Excise Tax Act.* Among these measures, only the amendment made to the *Income Tax Act* and designed to determine the fair market value of undivided interest in a property under the rules on joint and several responsibility for the payment of income tax resulting from the transfer of property,[22] will be incorporated into the Québec tax legislation. However, this measure will be adopted only after the approval of any federal law arising from this notice of motion, taking into account technical changes that might be made prior to the approval, and will apply on the same dates as for the purposes of federal income tax.

22 Section 170 of the Notice of Ways and Means Motion made public on December 2, 1999.

6. REDUCTION OF THE COST OF A SMALL-SCALE PRODUCTION PERMIT FOR DISTILLERS

The *Act respecting the Société des alcools du Québec* sets out the conditions for obtaining a large-scale distiller's permit and the privileges associated with it. The Act defines only one category of distiller's permit and the fees payable amount to $5 207 a year. These fees are adjusted annually.

For some years now, small farm holiday businesses that make products requiring a distiller's permit have developed in Québec. The fees payable for the permit must be adapted to this new phenomenon. The fees will thus be reduced by half when the holder's annual volume of sales worldwide is equal to or less than 3 000 hectolitres a year. This measure will come into effect beginning of April1, 2000.

7. SUPPORT FOR AND TREATMENT OF COMPULSIVE GAMBLERS

Compulsive gambling, i.e. the inability to control the desire to engage in games of chance, is a recognized pathology.

In order to prevent the growth of compulsive gambling and to treat people affected with the problem, the health and social services network will provide prevention, early intervention, screening and treatment services for compulsive gamblers, particularly those in crisis situations. During the next few weeks, the Minister for Health, Social Services and Youth Protection will announce the details of this new measure, which will involve, among other things, intervention and provision of services by certain community organizations.

Government investments in this new health and social services sector will amount to $44 million over a six-year period. The annual breakdown of this amount will equal $3 million for each of the 1999-2000, 2000-2001 fiscal years, $8 million for fiscal 2001-2002 and $10 million for each of the next three fiscal years. These expenditures will be financed by Loto-Québec which, following an administrative agreement with the Minister of Health and Social Services, will pay these sums into a specific account administered by the ministère de la Santé et des Services sociaux. The amounts paid by Loto-Québec will be taken from the net earnings of its lottery schemes.

8. RECOVERY PLAN FOR THE HORSE-RACING INDUSTRY

Special assistance of $300 000 a year will be given the Aylmer racetrack during fiscal 2000-2001 and 2001-2002 to maintain the jobs associated with the horse racing industry and strengthen the industry's foothold in the Outaouais region. This assistance will make it possible to increase the purses to be won on the track. This measure will be financed from the amounts allocated annually to the Société nationale du cheval de course for its recovery plan. They will correspond to the commission received by Québec's racetracks in respect of the video lottery machines on their grounds.