

Income Tax

IMP. 130-1/R5

Revision of the Amount of Capital Cost Allowance Claimed

Date of publication:

June 21, 2018

Reference(s):

Taxation Act (CQLR, c. I-3), section 130

Regulation respecting the Taxation Act (CQLR, c. I-3, r. 1), section 130R1

This version of bulletin IMP. 130-1 supersedes the version of December 29, 2011. It maintains and clarifies the guidelines set out in the previous version. Some changes in respect of style have been made for greater clarity.

This bulletin describes the guidelines followed by Revenu Québec in exercising its discretionary power to grant or deny a request for revision relating to capital cost allowance (CCA). It deals with the most frequent contexts in which such a request is made and sets out the conditions applicable to all such requests. The positions stated hereinafter also apply to requests for revision of the other discretionary deductions provided for in the *Taxation Act* (TA).

MEANING OF CERTAIN TERMS

1. In this bulletin:

the term "deadline for filing a notice of objection" refers to the deadline provided for in section 93.1.1 of the *Tax Administration Act* (CQLR, c. A-6.002), which is generally 90 days after the day the notice of assessment is sent;

the term "discretionary deduction" refers to a deduction made in computing a taxpayer's income, the amount of which is determined by the taxpayer and is limited to a maximum amount allowed by the TA or the *Regulation respecting the Taxation Act*, but does not include tax credits such as the foreign tax credit provided for in sections 772.6 et seq. of the TA; and

the term "income tax assessment" includes the contributions or premiums payable under the *Act respecting the Québec Pension Plan* (CQLR, c. R-9), the *Act respecting the Régie de l'assurance maladie du Québec* (CQLR, c. R-5), the *Act respecting prescription drug insurance* (CQLR, c. A-29.01) and the *Act respecting parental insurance* (CQLR, c. A-29.011) in the case of a self-employed worker and also refers to a logging tax assessment in the case of a taxpayer covered by Part VII of the TA.

CONTEXTS

Capital expenditure

2. A deduction claimed for a capital expenditure in computing a taxpayer's business income or income from property for a taxation year will be disallowed under section 129 of the TA. In such a case, the taxpayer may claim CCA in respect of the property for the year.

Reassessment

3. A taxpayer whose income tax is increased for a taxation year further to a reassessment (made in a context other than that referred to in point 2 of this bulletin or in subparagraph (i) of paragraph (b) of subsection (2) of section 1010 of the TA) will be allowed to make a request for revision of the CCA for the year provided the taxpayer has not claimed the maximum CCA in respect of all classes of property for the year.

4. If a taxpayer claims more CCA than is allowed for one class of property and less than the maximum CCA allowed for another class, the amount of CCA claimed that exceeds the prescribed maximum for the first class will be disallowed. The taxpayer may then claim the additional CCA allowed for the second class.

Certified property

5. Where a taxpayer acquires depreciable property of one class that, after certification or acceptance by a sectoral body, qualifies for inclusion in another class providing for a faster write-off and the taxpayer's fiscal year ends between the date of acquisition and the date of certification or acceptance of the property, Revenu Québec's policy is to consider the property, further to the certification or acceptance, to be property of the class providing for the faster write-off, effective from the date of acquisition. The taxpayer may then make revised claims for additional CCA for all prior taxation years in respect of which prescription has not been acquired.

CONDITIONS

Revision requested for a taxation year in respect of which income tax was payable

6. A taxpayer's request for revision of the amount of CCA claimed for a taxation year in respect of which the last assessment made shows income tax payable will be granted only if the prescribed deadline for filing a notice of objection in respect of the year has not passed, unless the circumstances to be considered are those described in point 5 of this bulletin.

7. However, where a taxpayer simultaneously makes a request for revision of the amount of CCA claimed and a request for revision relating to some other discretionary deduction, and the requests do not change the income tax assessment for the year concerned (or for any other year for which the deadline for filing a notice of objection has passed) because they offset each other, both requests will generally be granted, even if the deadline for objecting to the assessment has passed.

Revision requested for a taxation year in respect of which no income tax was payable

8. A taxpayer's request for revision of the amount of CCA claimed for a taxation year in respect of which a notice was issued stating that no income tax is payable will be granted provided it does not change the income tax assessment for the year or any other year for which the deadline for filing a notice of objection has passed, including any year in respect of which prescription has been acquired. For such a request to be granted, it also must not change the amounts of income tax deemed to have been paid under section 1005 of the TA or the amount of loss for a year in respect of which a notice of determination was issued.

Revision requested for a taxation year in respect of which a notice of loss determination was issued

9. A request for revision of the amount of CCA claimed for a taxation year in respect of which a notice of loss determination was issued must be made by the prescribed deadline for objecting to such a notice.

TAX FAIRNESS

10. It should be noted that, in keeping with its tax fairness measures, Revenu Québec does not process a refund application that is based on a request to increase a deduction, such as CCA, where the taxpayer initially elected not to claim the maximum amount allowed. For more details, see the current version of bulletin IMP. 1051-2.

TAX PLANNING

11. Revenu Québec may deny any request for revision of the amount of CCA claimed that it considers retroactive tax planning or part of an avoidance transaction whereby tax benefits may be obtained. The same is true for any request that is contrary to the scheme of the TA or gives rise to inappropriate tax results.

HOW TO MAKE A REQUEST FOR REVISION

12. A request for revision of the amount of CCA claimed must be made in writing to Revenu Québec. Considering, *inter alia*, the position stated in point 11 of this bulletin, Revenu Québec requires that a taxpayer seeking revision of the amount of CCA claimed disclose the context in which the request is made, the objectives, the proposed transactions involving the property in respect of which the CCA was claimed and any other information relevant to the decision to be made by Revenu Québec. Amended CCA schedules and any other schedules affected by the revision requested must also be provided.

Partnerships or undivided co-ownership

13. A request for revision of the amount of CCA claimed in computing a partnership's income must be made jointly by all members of the partnership and will be granted only if each member meets the conditions set out in points 6 through 9 of this bulletin. The same is true for such a request made in respect of depreciable property held in undivided co-ownership.