

## Income Tax

IMP. 87-6/R2                      Amount Received as Assistance or as an Inducement: Refundable Tax Credits

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Reference(s):                      *Taxation Act* (CQLR, c. I-3), sections 87 (paragraph (w)), 87.4, 93 (first paragraph, subparagraph (e), subparagraph (ii.1)), 101, 157 (paragraph (o)), 157.2.1, 225 et 399

*This version of bulletin IMP. 87 6 replaces the version of June 21, 2018. The position contained in it remains unchanged. Only references to withdrawn interpretation bulletins were removed.*

### AMOUNT RECEIVED AS ASSISTANCE OR AS AN INDUCEMENT

1. Paragraph (w) of section 87 of the *Taxation Act* (TA) provides, *inter alia*, that a taxpayer must include, in computing income from a business or property for a taxation year, any particular amount received by the taxpayer in the year from a government, municipality or other public authority in the course of earning income from the business or property, where it can reasonably be considered to have been received as a refund, reimbursement, contribution or allowance or as assistance (whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance) in respect of an amount included in, or deducted as, the cost of property or in respect of an outlay or expense, or where it can reasonably be considered to have been received as an inducement (whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement), to the extent that it:

(a) was not otherwise included in computing the taxpayer's income, or deducted in computing, for the purposes of Part I of the TA, any balance of undeducted outlays, expenses or other amounts, for the year or a preceding taxation year;

(b) except as provided by any provision of Chapter III.1 of Title III of Book IX (the chapter of the TA relating to refundable tax credits), does not reduce, for the purposes of Part I of the TA, the cost or capital cost of the property or the amount of the outlay or expense;

(c) does not reduce the cost of the property pursuant to paragraph (f.2) of section 257 of the TA, the capital cost of the property pursuant to section 101.6 of the TA or the amount of the outlay or expense pursuant to section 87.4 of the TA; and

(d) cannot reasonably be considered to be a payment made in respect of the acquisition by the public authority of an interest in the taxpayer or in the taxpayer's business or property.

2. By virtue of paragraph (b) of section 101 of the TA, where depreciable property is manufactured, built or acquired by a taxpayer with assistance, other than prescribed assistance, that the taxpayer received or is entitled to receive from a government, municipality or other public authority (whether as a subsidy, grant, forgivable loan, deduction from tax, investment allowance or any other form of assistance), the capital cost of the property to the taxpayer at any particular time is deemed to be the amount by which the aggregate of the capital cost of the property (determined without reference to the amount of assistance received in respect of the property) and the amount of assistance in respect of the property repaid by the taxpayer, pursuant to an obligation to do so, before the property is disposed of and before the particular time, exceeds the amount of assistance the taxpayer has received or is entitled, before the particular time, to receive in respect of the property before it is disposed of.

3. For example, a corporation is claiming the tax credit for investments relating to manufacturing and processing equipment in respect of property acquired in the X1 taxation year. Its taxation year ends on December 31. The corporation is entitled to receive the tax credit once it has met all the obligations and conditions related thereto, which generally means at the end of the taxation year in which the eligible expenses were incurred and paid. Pursuant to paragraph (b) of section 101 of the TA, the capital cost of the property must be reduced by the amount of the refundable tax credit the taxpayer is entitled to receive before the end of the taxation year. Since the tax credit is receivable only at the end of the X1 taxation year, the capital cost of the property will have to be reduced by the amount of the tax credit in the X2 taxation year.

4. Other legislative provisions (for example, sections 225 and 399 of the TA) deal with how government assistance is to be taken into account in computing expenditure accounts.

### **ASSISTANCE RECEIVED IN THE FORM OF A TAX CREDIT**

5. The Québec taxation system currently has a number of refundable tax credits for businesses. Generally speaking, these credits are amounts received as assistance or inducements from a government, within the meaning of the aforementioned provisions. However, under section 1029.9.4 of the TA, tax credits for holders of a taxi driver's or owner's permit are deemed not to be assistance or inducements received by the taxpayers from a government.

6. If the amount of a refundable tax credit is less than the balance of income tax and tax on capital payable, Revenu Québec considers the credit to be received on the taxpayer's balance-due date for a taxation year. If the amount of the credit is greater than the aforementioned balance, Revenu Québec considers the difference to be received at the time it is in fact paid to the taxpayer or applied to a debt of the taxpayer.

7. For example, a corporation receives a \$1,000 tax credit in respect of expenses incurred in the X1 taxation year. Its taxation year ends on December 31. The corporation does not make an election under section 87.4 of the TA and therefore does not reduce the expenses for the year X1. The corporation's balance of income tax and tax on capital owing for the year X1 is \$200, without

taking the credit into account. Thus, Revenu Québec will consider a \$200 tax credit to be received on the corporation's balance-due date for the year X1, that is, on the last day of the two-month period ending after the end of the taxation year, which is in the X2 taxation year. Revenu Québec will consider the remaining \$800 tax credit to be received at the time it is in fact paid to the taxpayer or applied to a debt of the taxpayer.

## **REPAYMENT OF AN AMOUNT RECEIVED BY THE TAXPAYER**

**8.** By virtue of paragraph (o) of section 157 of the TA, a taxpayer may deduct, in computing income from a business or property for a taxation year, an amount repaid by the taxpayer in the year pursuant to a legal obligation to repay all or part of a particular amount included, under paragraph (w) of section 87 of the TA, in computing income for the year or a preceding taxation year.

**9.** Where a taxpayer has received assistance in respect of depreciable property, the tax treatment of the amount of assistance repaid by the taxpayer in a particular taxation year will vary depending on whether the taxpayer still owns the property in question at the time of the repayment. If the taxpayer still owns the depreciable property, the amount of assistance repaid increases the capital cost of the property, in accordance with section 101 of the TA. If the repayment of assistance is made after the depreciable property has been disposed of, the amount repaid increases the undepreciated capital cost of the class of property to which that property belongs, in accordance with subparagraph (ii.1) of subparagraph (e) of the first paragraph of section 93 of the TA.

**10.** Tax legislation provides for the full or partial recovery of a tax credit by means of a special tax in certain situations. A special tax can be used to penalize a failure to meet certain conditions relating to a tax credit. For example, section 1129.0.14 of the TA provides that payment of the special tax relating to the tax credit for technological adaptation services is deemed to be a repayment of assistance. Thus, any time a corporation pays the Minister a special tax in respect of an expense or property, an amount of assistance in respect of the expense or property is deemed to be repaid by the corporation at that time, pursuant to a legal obligation. Under these circumstances, the special tax paid by a taxpayer is treated according to the rules set out in point 8 or point 9 of this bulletin, as applicable.