

Income Tax

LNT. 39.0.1-1/R1 Employers under federal jurisdiction

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Reference(s): *An Act respecting labour standards* (R.S.Q., c. N-1.1), ss. 39.0.1 and 39.0.2

This bulletin supersedes bulletin LNT. 39.0.1-1 dated September 30, 1996.

1. Section 39.0.2 of the *Act respecting labour standards* (ALS) provides that every employer subject to contribution shall pay an annual contribution for the financing of the Commission des normes du travail. Section 39.0.1 of the ALS defines the expression “employer subject to contribution”. The definition mentions certain employers that are excluded from paying the contribution.

2. The federal government, its agents and any work, undertaking or business the labour relations of which are governed by the *Canada Labour Code* (R.S.C., 1985, c. L-2) are not required to make this contribution, even if these entities are not specifically excluded from the definition of “employer subject to contribution”. The reason for this is that provincial laws such as the ALS that govern working conditions do not apply to these entities.

3. The *Canada Labour Code* applies to a “federal work, undertaking or business”, which means any work, undertaking or business that is within the legislative authority of the federal Parliament, including

- (a) a work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;
- (b) a railway, canal, telegraph or other work or undertaking connecting any province with any other province, or extending beyond the limits of a province;
- (c) a line of ships connecting a province with any other province, or extending beyond the limits of a province;
- (d) a ferry between any province and any other province or between any province and any country other than Canada;
- (e) aerodromes, aircraft or a line of air transportation;

- (f) a broadcasting station (radio and television);
- (g) cable television;
- (h) telephony;
- (i) a bank;
- (j) a work or undertaking that, although wholly situated within a province, is before or after its execution declared by the federal Parliament to be for the general advantage of Canada or for the advantage of two or more of the provinces;
- (k) a work, undertaking or business outside the exclusive legislative authority of the legislatures of the provinces;
- (l) a work, undertaking or activity in respect of which federal laws within the meaning of the *Oceans Act* (S.C. 1996, c. 31) apply pursuant to that Act and any regulations made thereunder;
- (m) the activities of bands or band councils that are associated with Indianness and that fall within the scope of the powers conferred on the bands or band councils by Canadian legislation under the *Indian Act* (R.S.C., 1985, c. I-5) or the *Cree-Naskapi (of Quebec) Act* (S.C. 1984, c. 18) with respect to band administration.

4. In determining whether a work, undertaking or business is a “federal work, undertaking or business” which is not subject, as such, to the ALS, the Ministère du Revenu generally considers the actual situation of the labour relations existing in the work, undertaking or business. For example, the existence of a trade union certified under the *Canada Labour Code* indicates a “federal work, undertaking or business”.