

Regulations and other Acts

Gouvernement du Québec

O.C. 797-2018, 20 June 2018

Environment Quality Act
(chapter Q-2)

Approval of Éco Entreprises Québec's schedule of contributions payable for 2018 for the "containers and packaging" and "printed matter" classes

WHEREAS, under section 53.31.1 of the Environment Quality Act (chapter Q-2), the persons referred to in subparagraph 6 of the first paragraph of section 53.30 of the Act are required, to the extent and on the conditions set out in subdivision 4.1 of Division VII of Chapter IV of the Act, to compensate the municipalities and the Native communities, represented by their band councils, for the services provided by the municipalities or communities to ensure that the materials designated by the Government under section 53.31.2 of the Act are recovered and reclaimed;

WHEREAS Éco Entreprises Québec is a body certified by RECYC-QUÉBEC for the "containers and packaging" and "printed matter" classes to represent the persons subject to an obligation of compensation under subdivision 4.1 of Division VII of Chapter IV of the Act;

WHEREAS, under the first paragraph of section 53.31.12 of the Act, a certified body must remit to RECYC-QUÉBEC, in trust, the amount of the compensation owed to the municipalities;

WHEREAS, under the first paragraph of section 53.31.13 of the Act, a certified body may collect from its members and from persons who, without being members, carry on activities similar to those carried on by the members where the designated materials or classes of materials are concerned, the contributions necessary to remit the full amount of compensation, including any interest or other applicable penalties, and to indemnify the body for its management costs and other expenses incidental to the compensation regime;

WHEREAS, under the first paragraph of section 53.31.14 of the Act, the contributions payable must be established on the basis of a schedule of contributions that has been the subject of a special consultation of the persons concerned;

WHEREAS Éco Entreprises Québec conducted such a consultation before determining the schedule of contributions applicable for 2018 for the "containers and packaging" and "printed matter" classes;

WHEREAS, under the third paragraph of section 53.31.14 of the Act, the schedule of contributions may provide for exemptions or exclusions and specify the terms according to which the contributions are to be paid to the certified body;

WHEREAS, under the fifth paragraph of section 53.31.14 of the Act, the schedule of contributions must be submitted to the Government, which may approve it with or without modification;

WHEREAS, under the second paragraph of section 53.31.15 of the Act, RECYC-QUÉBEC must give its opinion to the Government on the schedule of contributions proposed;

WHEREAS RECYC-QUÉBEC has given a favourable opinion on the 2018 schedule of contributions established by Éco Entreprises Québec, subject to certain amendments being made to it, for the "containers and packaging" and "printed matter" classes;

WHEREAS amendments have been made to the Schedule established by Éco Entreprises Québec;

WHEREAS, under Order in Council 135-2007 dated 14 February 2007, the Regulations Act (chapter R-18.1) does not apply to the proposed schedules or schedules of contributions established under section 53.31.14 of the Environment Quality Act;

WHEREAS it is expedient to approve the Schedule with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Schedule of contributions established by Éco Entreprises Québec for 2018 as amended, attached to this Order in Council and entitled 2018 Schedule of contributions for the "containers and packaging" and "printed matter" classes, be approved.

ANDRÉ FORTIER,
Clerk of the Conseil exécutif

2018

**Schedule of Contributions for
“Containers and Packaging” and “Printed
Matter” Classes**

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PREAMBLE

The *Environment Quality Act* (chapter Q-2) (the "**Act**") contains provisions with respect to the compensation to municipalities and Native communities for the services that the latter offer to ensure the recovery and reclaiming of residual materials designated in the *Regulation respecting compensation for municipal services provided to recover and reclaim residual materials* (chapter Q-2, r.10) (the "**Regulation**"). This Regulation specifies the basic principles and main orientations regarding the contribution of enterprises to the financing of recycling services.

Pursuant to section 53.31.12 of the Act, a body certified by the Société québécoise de récupération et de recyclage shall remit to same Société the amount of the monetary compensation owed to municipalities. In order to fulfill this obligation, the certified body may, pursuant to section 53.31.13 of the Act, collect from its members and from persons who or which, without being members, carry on similar activities to those carried on by the members in relation to the designated materials or classes of materials, the contributions necessary to remit a) the amount of compensation determined by the Société québécoise de récupération et de recyclage, including the interests and applicable penalties, as the case may be, b) the amount necessary to indemnify the certified body for its management costs and other expenses related to the compensation regime, as well as, c) the amount payable to the Société québécoise de récupération et de recyclage as per section 53.31.18 of the Act.

From this approach, the certified body also has the responsibility, pursuant to section 53.31.14, to prepare and propose a schedule that may cover up to a period of three years and in conformity with the objectives of the Act. The proposed rules in this schedule must be approved by the Government, and are afterwards published in the *Gazette officielle du Québec*.

It is in this context that Éco Entreprises Québec (ÉEQ) was recertified on December 16, 2016, to represent persons having an obligation to compensate for the "containers and packaging" and "printed matter" classes of materials, and collect from the latter the monetary compensations that will be remitted to municipalities.

The Act dictates a number of requirements guiding ÉEQ's actions in the preparation of the Contribution Table for the enterprises, which are:

- The payable contributions must be established on the basis of a schedule that has been the subject of a special consultation with the "Targeted Persons";
- The criteria taken into account to determine the schedule must evolve over the years in order to foster the accountability of the various classes of Targeted Persons in regards to the environmental consequences of the products they manufacture, market, distribute or commercialise or the materials they otherwise generate, having regard to the content of recycled materials, the nature of materials used, the volume of residual materials produced and their potential for recovery, recycling and/or other forms of reclamation.

As for the Regulation, it specifies various aspects of the Act; more particularly, it specifies the minimal framework applicable to the schedule, namely by establishing certain exemptions that will benefit certain persons in respect of certain materials or, conversely, by targeting persons that solely may be required to pay contributions in respect of certain materials, as stipulated in the third (3rd) paragraph of section 1 of the Regulation.

Section 53.31.14 of the Act states that the schedule may provide for exemptions and exclusions and may specify the terms according to which the contributions are to be paid to ÉEQ.

The schedule prepared and proposed by ÉEQ has been drafted in a way to include all the elements enabling a person to determine its liability, to understand the scope of its obligations and to determine the amount of the payable contribution. In order to reach all those clarity and conciseness goals in a sole document, ÉEQ has reproduced certain provisions of the Act and the Regulation and also proposes a section covering the definitions of certain terms used.

With the same concern for clarity, ÉEQ proposes explanations to targeted persons that are available on its website at www.eeq.ca.

ÉEQ favours alternative modes of dispute resolution, particularly arbitration, with respect to the quantity or type of materials that must be taken into account in the report to be submitted. In this context, the procedural rules favoured by ÉEQ are those found in the administrative guide entitled *Mediation and Arbitration Rules* that are available on its website at www.eeq.ca.

During the time where ÉEQ is in possession of information that has been transmitted to it in the scope of the compensation regime, ÉEQ shall see to it that all agreed upon means are put in place to ensure the safety and confidentiality, and ensure the respect of all other obligations provided for by the applicable laws pertaining to the confidentiality and conservation of this information.

The document hereafter constitutes the 2018 Schedule for "Containers and Packaging" and "Printed Matter" Classes (the "Schedule") proposed by ÉEQ for approval by the government.

1. DEFINITIONS

1.1 DEFINITIONS

In the Schedule, unless the context indicates otherwise, the following words and expressions mean or refer to:

- a) "Obligation Year": year for which a Targeted Person is required to pay the payable contribution established on the basis of the Materials it marketed during the Reference Year defined in the Schedule;
- b) "Reference Year": time period from January 1 to December 31 of a calendar year for which a Targeted Person must submit the quantities of Materials for the establishment of the payable contribution related to the corresponding Obligation Year;
- c) "Classes of Materials": two (2) of the three (3) classes of materials targeted by the Compensation Regime, specifically "containers and packaging" and "printed matter" that are marketed in Québec and for which, for the purposes of the contribution, exclusions are prescribed under Chapter 3 of the Schedule;
- d) "Ultimate Consumer": the ultimate recipient or ultimate user of a product or a service;
- e) "Retailer": means a person whose principal activity consists in the operation of one or several retail outlet(s) intended for an ultimate consumer;
- f) "Establishment": a physical place wherein takes place, by one or many persons, an organized economic activity, whether or not it is commercial in nature, consisting in the production of goods, their administration or their alienation, or in the provision of services. Any place described in Appendix B of the Schedule is deemed to constitute an establishment;
- g) "Newspapers": one (1) of the three (3) classes of material also stipulated in the *Regulation*, but not targeted by the Schedule, and represented by RecycleMédias;
- h) "Act": the *Environment Quality Act* (chapter Q-2), as amended from time to time;
- i) "Materials": containers, packaging, or printed matter included in a Class of Materials and that are listed in Appendix A, column 3 of the Table found in the Schedule;

- j) "Brand": means a mark that is used by a person for the purpose of distinguishing or so as to distinguish products or services manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others, but does not include a certification mark within the meaning of section 2 of the *Trade-marks Act*, (R.S.C. 1985, c. T-13);
- k) "Name": means the name under which any business is carried on, whether or not it is the name of a legal person, a partnership or an individual;
- l) "Targeted Person": a natural person, partnership, cooperative or a legal person other than a municipality obligated by the Compensation Regime and subject, for the purposes of the payable contribution, to exemptions and other terms prescribed under Chapter 2 of the Schedule;
- m) "First Supplier": means a person who has a domicile or an establishment in Québec and is the first to take title, or possession, or control, in Québec, of a printed matter designated by the Schedule or a product whose container or packaging is designated by the Schedule;
- n) "Product": material good intended for an ultimate consumer, whether directly or indirectly sold or provided otherwise;
- o) "Compensation Regime": the compensation regime prescribed by Chapter IV, Division VII, subdivision 4.1 of the Act and by the Regulation, as amended from time to time;
- p) "Regulation": *The Regulation respecting compensation for municipal services provided to recover and reclaim residual materials* (chapter Q-2, r.10);
- q) "Service": service that is not a material good and that is intended for an ultimate consumer, whether it is sold or otherwise provided, either directly or indirectly;
- r) "Distinguishing Guise": means the shaping of containers or packaging, the appearance of which is used by a person for the purpose of distinguishing or so as to distinguish products manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others.

2. DESIGNATION OF PERSONS SUBJECT TO PAYING A CONTRIBUTION

2.1 TARGETED PERSONS

2.1.1 The persons referred to in sections 3 and 6 of the Regulation, that are the owners of a Brand, a Name or a Distinguishing Guise are the only ones who may be required to pay a contribution for:

- 1° Containers and packaging used for commercialising or marketing a Product or Service in Québec under that Brand, Name or Distinguishing Guise;
- 2° Containers and packaging identified by that Brand, Name or Distinguishing Guise;
- 3° Containers and packaging intended for a single or short-term use and designed to contain, protect or wrap products, such as storage bags, wrapping paper and paper or styrofoam cups;
- 4° Materials included in the printed matter class identified by that Brand, Name or Distinguishing Guise.

When a Product or a Service, a container, a packaging or a printed matter, that is mentioned in the first paragraph, is identified by more than one Brand, Name or Distinguishing Guise having different owners, the Targeted Person is the owner of the Brand, Name or Distinguishing Guise that is the most closely related to the production of the Product or the Service, the container, the packaging or the printed matter.

2.1.2 If the owner has no domicile or establishment in Québec, the payment of the contribution can then be required from the First Supplier in Québec of the Products or the Services, or the containers and packaging or of the printed matter, other than the manufacturer, whether or not that supplier is the importer.

When the First Supplier in Quebec is operating a retail outlet that is supplied or operated as a franchise or a chain of establishments, under a banner name or as part of another similar form of affiliation or group of businesses or establishments, the payment of the contribution can then be required from the franchisor, the owner of the chain, banner or group in question, or if they have no domicile or establishment in Québec, from their representative in Québec.

- 2.1.3 The following special rules apply in respect of containers or packaging added at retail outlets, whether or not the containers or packaging are subject to section 2.1.1 of the Schedule, paragraphs 1, 2 and 3, and section 2.1.2 of the Schedule:
- 1° The payment of a contribution may not be required from the manufacturer of such containers and packaging nor, subject to paragraphs 2 and 3, from the person who added such containers or packaging at the retail outlet;
 - 2° Where a retail outlet is supplied or operated as a franchise or a chain, under a banner name, or as part of another similar form of affiliation or group of businesses or establishments, the contribution for containers or packaging added at the retail outlet is payable by the franchisor, owner of the chain, banner or group, as the case may be, or if the franchisor, owner of the chain, banner or group has no domicile or establishment in Québec, by their representative in Québec, or where there is no representative, by the retailer.
 - 3° When a retail outlet which has equal to or superior to 929m² of total floor area, is not operated as a franchise, a chain, a banner, or as part of another similar form of affiliation or group of businesses or establishments, the contributions for containers and packaging added at this sole retail outlet are payable by its owner or, if the owner has no domicile or establishment in Québec, by its representative in Québec.
- 2.1.4 The Targeted Person who has a right of ownership in the Brand, Name or Distinguishing Guise and who sells, transfers or otherwise assigns to another person said right, during the Reference Year, remains, with the other person, fully and solidarily liable for the payable contribution amount up to the transfer date.
- 2.1.5 In the event of a total or partial sale, transfer or assignment of an enterprise, during the Reference Year, involving a Targeted Person who may notably be a franchisor, an owner of a chain, banner or group, or a First Supplier to another person, the parties involved in this transaction remain fully and solidarily liable for the payable contribution amount up to the transfer date.
- 2.1.6 Are also Targeted Persons, those persons that have no retail outlet in Québec and whose products are commercialised or whose services are offered in Quebec through E-commerce. These persons cannot be exempted from paying a contribution under section 2.2.2, paragraph 3.

2.2 EXEMPTED PERSONS

2.2.1 In accordance with section 5 of the Regulation, the persons mentioned therein are exempt from paying a contribution for those containers and packaging for which they already have obligations to ensure the recovery and reclamation of said materials.

1° Persons who are already required under a regulation made under the Act to take measures or contribute financially towards measures to recover or reclaim certain containers or packaging;

2° Persons already required under a consignment system recognized under Québec law to take measures or contribute financially towards measures to recover or reclaim containers or packaging targeted by this system, such as beer and soft drink non-refillable containers;

3° Persons who are able to establish that they participate directly in another system to recover and reclaim containers or packaging that operates on an established and regular basis in Québec, such as the program for the recovery of refillable beer bottles existing on November 24, 2004.

2.2.2 Are also exempt from paying a contribution in regard to containers and packaging and printed matter:

1° The Targeted Persons subject to sections 2.1.1 and 2.1.2 of the Schedule whose gross sales, receipts, revenues or other inflows for Products marketed in Québec or Services provided in Québec were less than or equal to \$1,000,000 or who marketed in Québec one or more Materials of which the total weight of the Materials or group of Materials is less than or equal to one (1) metric ton;

2° The Targeted Persons subject to section 2.1.3, paragraphs 2° or 3° of the Schedule whose gross sales, receipts, revenues or other inflows for Products marketed in Québec or Services provided in Québec were less than or equal to \$1,000,000 or who marketed in Québec one or more Materials of which the total weight of the Materials or group of Materials is less than or equal to one (1) metric ton;

In order to determine the gross sales, receipts, revenues or other inflows in Québec or the total weight of these Materials or group of Materials, the Targeted Persons who are subject to section 2.1.3, paragraphs 2 or 3 of the Schedule must take into consideration the combined activities in Québec of all of its retail outlets that are supplied or operated as a

franchise or a chain, under a banner name, or as part of another similar form of affiliation or group of businesses or establishments;

- 3° The Targeted Persons who are retailers and operate only one retail outlet and which location is not supplied or operated as a franchise or a chain of establishments, under a banner name, or as part of another similar form of affiliation or group of businesses or establishments. However, those Targeted Persons referred to under Section 2.1.3, paragraph 3 of the Schedule, cannot benefit from the present exemption.

2.3 VOLUNTARY CONTRIBUTOR

2.3.1 Éco Entreprises Québec may accept that a third party whose domicile and establishment is outside Québec and who is the owner of a Brand, a Name or a Distinguishing Guise becomes a voluntary contributor, notably if that third party:

a) is not exempt from paying a contribution pursuant to section 5 of the Regulation or division 2.2 of the Schedule; and

b) satisfies the conditions set out in the following paragraphs.

2.3.2 Voluntary contributors may only act to fulfill obligations that, according to the Schedule, with regard to their Products and Services, containers and packaging or printed matter, would be the responsibility of the First Supplier, but this does not have the effect of exempting the First Supplier from its obligations under the Schedule.

2.3.3 A third party may be recognized as a voluntary contributor after having entered into an agreement to that effect with Éco Entreprises Québec, which includes, amongst other conditions:

- That it undertakes to assume all of the obligations of a Targeted Person pursuant to the Schedule;
- That it undertakes, in regards to the First Supplier, to fulfill any obligation flowing from the agreement;
- That it undertakes to abide by Québec laws and agrees that lawsuits be instituted in the Province of Québec, according to Québec laws.

The third party who has entered into such an agreement is deemed to be a Targeted Person pursuant to the Regulation and the Schedule.

2.3.4 Éco Entreprises Québec may decide to enter into the agreement provided under section 2.3.3 of the Schedule with a third party, whose domicile or establishment is outside Québec, and, while not being owner of a Brand, a Name or a Distinguishing Guise, is its main distributor in Québec. Section 2.3.2 of the Schedule applies equally to this third party.

2.3.5 The First Supplier and the voluntary contributor are solidarily liable for the obligations they are subject to pursuant to the Schedule.

2.4 PUBLICATION OF THE NAMES OF TARGETED PERSONS

2.4.1 Éco Entreprises Québec can make a list available including the names of any person who has fulfilled the obligations of division 5.1 of the Schedule, and has consented to such disclosure.

3. DESIGNATION OF CLASSES OF MATERIALS REQUIRING A CONTRIBUTION AND EXCLUSIONS TO THE SCHEDULE

3.1 "CONTAINERS AND PACKAGING": GENERAL DEFINITION

3.1.1 Pursuant to section 2 of the Regulation, the "containers and packaging" Class of Materials includes all flexible or rigid material, for example paper, carton, plastic, glass or metal, and any combination of such materials that, as the case may be:

- a) is used to contain, protect, wrap or notably present products at any stage in the movement of the product from the producer to the Ultimate Consumer;
- b) is intended for a single or short-term use and designed to contain, protect or wrap products, such as storage bags, wrapping paper and paper or styrofoam cups.

3.2 "CONTAINERS AND PACKAGING" INCLUDED IN THE PAYABLE CONTRIBUTION

3.2.1 The containers and packaging listed in Appendix A, as well as the containers and packaging given out free of charge as Products, must be included in the establishment of the payable contribution.

3.3 "CONTAINERS AND PACKAGING" EXCLUDED FROM THE PAYABLE CONTRIBUTION

3.3.1 The following containers and packaging are excluded from the establishment of the payable contribution:

- a) Containers and packaging whose Ultimate Consumer is an industrial, commercial or institutional establishment;
- b) Containers and packaging whose Ultimate Consumer is an agricultural establishment, notably rigid containers of pesticides for agriculture use approved by the Pest Management Regulatory Agency and rigid containers of fertilizers approved by the Canadian Food Inspection Agency subject to the programs enacted by CleanFARMS/AgriRÉCUP;
- c) The pallets, tertiary or transport packaging, designed to facilitate the handling and transport of a number of sales units or bundled packaging conceived in order to prevent physical handling and transport damage.

However, containers and packaging that are likely to be used not only for such transportation but also for delivery of products directly to the Ultimate Consumer, including paper, carton, polystyrene protection or plastic film, remain covered and must consequently be included in the establishment of the payable contribution;

- d) Containers and packaging sold as products which are implicitly meant to contain or package materials other than those designated by the compensation regime, such as household waste, organic compost and biomedical waste;
- e) Long-life containers or packaging: are considered as such containers or packaging designed to accompany, protect or store a Product throughout its life when the Product is designed to last for five (5) years or more.
- f) Containers or packaging accompanying a Product intended solely to be used or consumed by an Ultimate Consumer at the site of distribution or sale of the Product when such containers or packaging are taken into charge on that same site. As an example, but not limited to, such excluded containers and packaging are those accompanying food in a restaurant, but not those accompanying drive-thru and take-out orders.

3.4 "PRINTED MATTER": GENERAL DEFINITION

- 3.4.1 Pursuant to section 2 of the Regulation, the "printed matter" Class of Materials includes paper and other cellulosic fibres, whether or not they are used as a medium for text or images.

3.5 "PRINTED MATTER" INCLUDED IN THE PAYABLE CONTRIBUTION

- 3.5.1 The printed matter notably listed in Appendix A, as well as the papers and other cellulosic fibres given out free of charge as Products, such as calendars and greeting cards, must be included in the establishment of the payable contribution.

Materials that can be identified by a Brand, a Name or a Distinguishing Guise are considered as printed matter that should be included in the establishment of the payable contribution.

3.6 "PRINTED MATTER" EXCLUDED FROM THE PAYABLE CONTRIBUTION

3.6.1 The following printed matter are excluded from the payable contribution:

- a) Printed matter whose Ultimate Consumer is an industrial, commercial or institutional establishment;
- b) Books as well as materials included in the "Newspapers" Class of Materials;
- c) Printed matter already included in the "containers and packaging" Class of Materials;
- d) Printed matter serving as personal identification documents, official documents or that contain personal information, such as birth certificates, passports and medical records;
- e) Printed matter generated while providing a Service or accompanying a Product intended solely to be used or consumed by an Ultimate Consumer at the site of distribution or sale of the Service or the Product when such printed matter is taken into charge on that same site.

4. DETERMINATION OF THE CONTRIBUTION AMOUNT AND PAYMENT

4.1 PAYABLE CONTRIBUTION AND REFERENCE YEAR FOR THE CALCULATION OF THE CONTRIBUTION

4.1.1 For the Obligation Year 2018:

- a) A Targeted Person that marketed Materials in the course of the year 2017 must pay a contribution for the Obligation Year 2018;
- b) For the purpose of calculating the payable contribution for the Obligation Year 2018, the Materials that must be considered are those marketed in Québec from January 1st, 2017, to December 31st, 2017, inclusively, which year constitutes the Reference Year.

4.1.2 The contribution amount payable by a Targeted Person due for the Obligation Year 2018 is determined by multiplying, for each Material, the quantity in kilograms that is marketed in Québec during the Reference Year applicable to this Obligation Year by the rate applicable to that Material pursuant to the applicable Contribution Table for same Obligation Year, annexed in Appendix A of the Schedule, respectively, and then by adding together all of these amounts.

- 4.1.3 For the purposes of the Schedule, any Targeted Person required to pay a contribution under Chapter 2 of the Schedule is deemed to have marketed Materials.

4.2 LUMP SUM PAYMENT OPTION

- 4.2.1 Any Targeted Person whose gross sales, receipts, revenues or other inflows for Products marketed or Services provided in Québec for a Reference Year are greater than \$1,000,000 and who has marketed one or more Materials for the same period, with a total weight for such Materials or group of Materials greater than 1 metric ton but less than or equal to 15 metric tons may choose, for the Obligation Year related to the Reference Year, either to pay the contribution established under division 4.1 of the Schedule or opt to pay the lump sum payment set out as follows:

- a) When the total weight of the Materials or group of Materials is less than or equal to 2.5 metric tons, the lump sum payable contribution is established at \$420;
- b) When the total weight of the Materials or group of Materials is more than 2.5 metric tons but less than or equal to 5 metric tons, the lump sum payable contribution is established at \$890;
- c) When the total weight of the Materials or group of Materials is more than 5 metric tons but less than or equal to 10 metric tons, the lump sum payable contribution is established at \$1,775;
- d) When the total weight of the Materials or group of Materials is more than 10 metric tons but less than or equal to 15 metric tons, the lump sum payable contribution is established at \$2,965.

Alternatively, when the Targeted Person's gross sales, receipts, revenues or other inflows for the Products marketed or Services provided in Québec for a Reference Year are greater than \$1,000,000 but equal to or less than \$2,000,000, it may choose to pay the lump sum payable contribution established at \$2,965.

In order to determine the gross sales, receipts, revenues or other inflows in Québec or the total weight for the Material or group of Materials, the Targeted Person subject to section 2.1.3, paragraphs 2 or 3 of the Schedule must take into consideration the combined activities in Québec of all its retail outlets that are supplied or operated as a franchise or a chain, under a banner name, or as part of another similar form of affiliation or group of business or establishments.

4.3 DATES OF PAYMENT OF THE CONTRIBUTION

4.3.1 The Targeted Person must pay to Éco Entreprises Québec the amount of the payable contribution as determined pursuant to section 4.1.2 of the Schedule within the delays and according to the terms of payment indicated hereafter:

- 80% of the payable contribution must be paid no later than the last day of the fourth month following the effective date of the Schedule of Contributions;
- The balance of the contribution must be paid no later than the last day of the sixth month following the effective date of the Schedule.

4.3.2 Where the Targeted Person chooses to pay a lump sum pursuant to section 4.2.1 of the Schedule, the Targeted Person must pay 100% of such lump sum no later than the last day of the fourth month following the effective date of the Schedule of Contributions.

4.4 INTEREST, ADMINISTRATION FEES AND RECOVERY AMOUNT

4.4.1 Under reserve of any additional amount required to be paid as the contribution owed as per a revised invoice, any part of the payable contribution owed by the Targeted Person that has not been paid to Éco Entreprises Québec in the period fixed under section 4.3.1 or 4.3.2 of the Schedule, and pursuant to the payment terms provided for at division 4.5 of the Schedule, will bear interest at the rate fixed by section 28 of the *Tax Administration Act* (chapter A-6.002), and this in conformity with section 53.31.16 of the Act. The interest is calculated daily on the amount owed from the date at which this part of the contribution must be paid until the date of payment, at the rate mentioned hereabove. Any change in the rate will immediately bring a change to the payable interest rate pursuant to the present section.

However, the daily interest calculated between the date the invoice is issued pursuant to the Schedule and the date of payment are cancelled if the amount required by this invoice is paid at the latest thirty (30) days following the date the invoice was issued.

4.4.2 Under reserve of any additional amount required to be paid in the contribution owed as per a revised invoice, any Targeted Person who has not paid a part of the payable contribution in a delay of ninety (90) days following the date at which said part of the contribution is due pursuant to section 4.3.1 or 4.3.2 of the Schedule, must pay, in addition to the interest required under section 4.4.1 of the Schedule, the administrative fees equivalent to 10% of the part of the payable contribution owed in order to compensate Éco Entreprises Québec for its administrative costs incurred.

When a Targeted Person makes the written request and Éco Entreprises Québec only had to undertake minor administrative measures to claim a sum owed under the terms of the Schedule, a 50% reduction of the administrative fees that are due under the first paragraph may be applied.

The Targeted Persons that are subject to division 4.2 of the Schedule who have not been the object of any recovery measures by Éco Entreprises Québec under section 5.2.2 of the Schedule and who, voluntarily and in conformity with division 5.1 of the Schedule, register with Éco Entreprises Québec and submit a Materials Report to it, may be admissible to a credit equivalent to 100% of the administrative fees that are owed under the first paragraph upon the receipt of a written request.

- 4.4.3 Pursuant to section 53.31.16 of the Act, where Éco Entreprises Québec commences a legal recourse to claim a sum it is owed, it may claim an amount equal to 20% of that sum.

4.5 PLACE AND METHOD OF PAYMENT

- 4.5.1 Any payment made according to the Schedule must be in Canadian legal currency.
- 4.5.2 Any payment owed according to the Schedule may be made by cheque, pre-authorized debit, wire transfer or a centralized payment service.

In the event the payment is made by way of a wire transfer or by a centralized payment service, a written notice to that effect must be submitted to Éco Entreprises Québec. If such notice is not forwarded, Éco Entreprises Québec is exonerated from any liability if the amount of the payment is not applied.

5. REGISTRATION AND REPORTING BY TARGETED PERSONS

5.1 REGISTRATION AND REPORTING BY TARGETED PERSONS

- 5.1.1 All Targeted Persons must register with Éco Entreprises Québec in conformity with the procedure set out in section 5.1.5 of the Schedule.
- 5.1.2 As per the procedure set out in section 5.1.5 of the Schedule, every Targeted Person must also submit a report of the Materials it marketed in order to establish its payable contribution according to Chapter 4, by submitting notably the following data and information to Éco Entreprises Québec:

- a) A description of the methodology and data used to prepare the Targeted Person's Materials report;
- b) A description of the Materials excluded from the Materials report used to establish the Targeted Person's payable contribution;
- c) A description of deducted Materials from the Targeted Person's Materials report, as well as, the number of kilograms or the percentage applied according to the type of Material;
- d) A description of the containers, packaging and printed matter that the Targeted Person marketed and that are not mentioned in the Materials report, as well as, the quantity in kilograms of the marketed containers, packaging and printed matter;
- e) A list of Brands, Names and Distinguishing Guises that are covered in the Targeted Person's Materials report;
- f) A declaration as to the truthfulness of the information contained in the Targeted Person's Materials report.

5.1.3 A Targeted Person must register and submit its Materials report for the 2018 Obligation Year.

5.1.4 A Targeted Person must register and submit the Materials report at the latest ninety (90) days following the effective date of the Schedule.

5.1.5 The registration and Materials report must be transmitted to Éco Entreprises Québec electronically. This must be done by using the forms that are provided to this effect in the registration and reporting interfaces that are available on Éco Entreprises Québec's website at www.eeq.ca, all according to the submission procedures described on the site.

5.2 BILLING, CREDITS AND REIMBURSEMENT

5.2.1 Upon receipt of the Materials report from the Targeted Person, Éco Entreprises Québec sends by e-mail to the Targeted Person who submitted the report one (1) or two (2) invoice(s) for the payable contribution, which is established based on the information contained in the Materials report, and in relation to the type of contribution established pursuant to sections 4.3.1 or 4.3.2 of the Schedule, as the case may be.

The present section cannot, however, be interpreted as exonerating the Targeted Person from paying the contribution within the delays stipulated in division 4.3 of the Schedule.

The present section also cannot be interpreted as denying Éco Entreprises Québec its right to review said Materials report and to send an imposed invoice or a revised invoice pursuant to sections 5.2.2, 5.2.3 and 5.2.4 of the Schedule.

- 5.2.2 Any failure to register, any failure to submit the Materials report and the submission of an incomplete, late, erroneous or fraudulent Materials report gives rise to the possibility that Éco Entreprises Québec, at any time, may impose the amount of the contribution payable by means of an estimate based on all elements in its possession, notably based on the installations or activities of the Targeted Person, or by way of a recognized fixed-price estimate method. These elements or methods remain confidential if Éco Entreprises Québec uses personal information concerning a Targeted Person to establish the imposed invoice. In this case, Éco Entreprises Québec cannot be compelled to reveal these elements or methods. This imposed invoice is presumed valid and if it is contested, it belongs to the Targeted Person to establish that the invoice is ill-founded.

This imposed invoice includes interest and the administrative fees established pursuant to sections 4.4.1 and 4.4.2 of the Schedule. Despite any contestation, any amount owed under the imposed invoice must be paid in the thirty (30) days of it being issued.

In the event that the Targeted Person subject to the first paragraph has previously been sent an imposed invoice under the terms of one or more previous Schedules, Éco Entreprises Québec may require payment of an amount equivalent to an increase of, at most 20% of the payable contribution established in conformity with the first paragraph.

- 5.2.3 Éco Entreprises Québec can, within a delay of three (3) years following the date when the Targeted Person submits the Materials report, review the Materials report submitted by the Targeted Person and require that the Targeted Person provide the necessary documentation to said report within a delay of sixty (60) days. Éco Entreprises Québec can also decide to make the necessary corrections after having informed the Targeted Person. Following these corrections, a revised invoice of the payable contribution is sent to the Targeted Person. This revised invoice is presumed valid and if it is contested, it belongs to the Targeted Person to establish that it is ill-founded.

Despite any contestation, the additional sum required to be paid for the contribution as indicated in the revised invoice must be paid by the Targeted Person to Éco Entreprises Québec within a delay of thirty (30) days following the issuance of this invoice.

The amount owed will bear interest at the rate fixed by section 28 of the *Tax Administration Act* (chapter A-6.002), and this in conformity with section 53.31.16 of the Act. The interest is calculated daily on the unpaid amount of the contribution, starting from the date this amount must be paid until the date of payment, at the rate mentioned here above. Any change to this rate automatically brings a change to the payable interest rate pursuant to the present section.

In addition to interest, any Targeted Person that has not paid the sum required within the delay of ninety (90) days following the date at which this sum is due, must pay fees equivalent to 10% of the sum owed to compensate Éco Entreprises Québec for the administrative fees it incurred.

- 5.2.4 In the event that a Targeted Person believes that it has grounds that could justify a revision of its Materials report by Éco Entreprises Québec, it must submit this amended Materials report to Éco Entreprises Québec for approval, within a period of one (1) year following the deadline provided for at section 5.1.4 of the Schedule for the submission of the Materials report, failing which its claim is forfeited. This predetermined time limit is of two (2) years when the amended Materials report seeks to correct a situation where more than one Targeted Person has submitted a Materials report relating to the same Material(s), which resulted in duplicate reports. All relevant documents and information allowing Éco Entreprises Québec to proceed with a complete analysis and to render an enlightened decision must be filed in the same delay. If Éco Entreprises Québec approves in all or in part the said amended Materials report, a revised invoice of the payable contribution is then transmitted to the Targeted Person. This revised invoice is presumed valid and where it is contested, it belongs to the Targeted Person to establish that it is ill-founded.

If, within a delay of one (1) year following the delay established in section 5.1.4 of the Schedule, a Targeted Person submits more than one amended Materials report to Éco Entreprises Québec for approval, said person is subject to pay administration fees corresponding to the greatest amount between \$250 and 5% of the difference between the contribution indicated in the latest filed and revised report approved by Éco Entreprises Québec and the contribution indicated in the amended report, for a maximum of \$25,000, and this before Éco Entreprises Québec undertakes any study of the amended Materials report.

When, after filing an amended Materials report as indicated in the second paragraph of this section that Éco Entreprises Québec approves, a Targeted Person must pay a higher contribution than that of the previously accepted revised Materials report, Éco Entreprises Québec may renounce to the Targeted Person paying the administration fees due under the second paragraph of this section. The amount of administration fees already paid is to be credited to the Targeted Person, as the case may be.

Despite any contestation, the additional amount required to be paid for the contribution as indicated in the revised invoice must be paid by the Targeted Person to Éco Entreprises Québec within a delay of thirty (30) days following

the issuance of this invoice. The amount owed will bear interest at the rate fixed by section 28 of the *Tax Administration Act* (chapter A-6.002), and in conformity with section 53.31.16 of the Act. The interest is calculated daily on the unpaid amount of the contribution, starting from the date this amount must be paid until the date of payment, at the rate mentioned here above. Any change to this rate automatically brings a change to the payable interest rate pursuant to the present section.

In addition to interest, any Targeted Person that has not paid the sum required within the delay of ninety (90) days following the date at which this sum is due, must pay fees equivalent to 10% of the sum owed to compensate Éco Entreprises Québec for the administrative fees it incurred.

- 5.2.5 Once the amended Materials report is approved by Éco Entreprises Québec, and it appears that the Targeted Person paid a contribution that was higher than it should have paid, the amount overpaid is credited to any contribution payable for the following Obligation Year, up to the adjusted contribution amount for the current Obligation Year. Éco Entreprises Québec reimburses the Targeted Person, without interest, any amount exceeding this credit subject to any administration fees owed to Éco Entreprises Québec pursuant to section 5.2.4, paragraph 2.
- 5.2.6 A Targeted Person to whom an imposed or revised invoice has been sent may attempt to arrive at an agreement with Éco Entreprises Québec pursuant to Chapter 6 of the Schedule if the dispute relates to the quantity or the qualification of Materials that should have been taken into account in the Materials report. This process does not exempt, however, the Targeted Person from their obligation to pay the amount indicated in the imposed invoice in the period indicated at section 5.2.2 of the Schedule, or the additional sum required to be paid as a contribution indicated in the revised invoice within the delay indicated at section 5.2.3 or 5.2.4, as the case may be. In the event where an agreement is reached and results in an overage paid, section 5.2.5 of the Schedule applies with any necessary adjustments.
- 5.2.7 Following a request submitted by a Targeted Person and approved by Éco Entreprises Québec, Éco Entreprises Québec reimburses, without any interest, any contribution or any part of a contribution paid by a person whom has opted to pay a lump sum pursuant to section 4.2.1 of the Schedule and for whom it was later determined not to be a Targeted Person under the Schedule.

5.3 VERIFICATION AND CONSERVATION OF FILES

- 5.3.1 Éco Entreprises Québec reserves the right to require, from any Targeted Person, as well as, any person whom Éco Entreprises Québec has reasonable grounds to believe is a Targeted Person, the books, registries, accounting documents and any other documents deemed necessary by Éco Entreprises Québec in order to establish the payable contribution by this person.

Any person to whom such a request is made must render this information available to be consulted and photocopied by Éco Entreprises Québec, during normal business hours, no later than sixty (60) days following the receipt of a written notice from Éco Entreprises Québec to that effect.

- 5.3.2 Other than the information and documents that the Targeted Person must submit in support of its Materials report, Éco Entreprises Québec reserves the right to require from the said person that it provide, within sixty (60) days following the receipt of a written notice, any supplementary information, such as, a complete list of containers and packaging and printed matter covered by the Schedule, whether or not this information was used in the preparation of the Materials report, the data tables, audit reports, list of declared Brands and list of Brands excluded from the Materials report and the distribution of percentages, which were used by the Targeted Person to complete its Materials report.
- 5.3.3 When a Targeted Person does not provide the information and documents required by Éco Entreprises Québec within the delay set out in sections 5.3.1 or 5.3.2, as the case may be, said person is subject to pay administration fees corresponding to the greatest amount between \$250 and 1% of the contribution owed for the relevant Obligation year following this default, for a maximum amount of \$25,000;
- 5.3.4 Any Targeted Person must keep a record of all documents and any technological or other support used to prepare the Materials report for a period of at least five (5) years from the date that this Materials report is transmitted.

6. DISPUTE RESOLUTION

6.1 PROCEDURE

- 6.1.1 In the case of a dispute between the Targeted Person and Éco Entreprises Québec regarding the quantity or the qualification of the Materials that should have been taken into account in the Materials report following the issuance of an imposed invoice pursuant to section 5.2.2 of the Schedule, or following the issuance of a revised invoice pursuant to section 5.2.3 or 5.2.4 of the Schedule, the Targeted Person and Éco Entreprises Québec will endeavour to resolve the dispute by way of discussions between their respective representatives in the thirty (30) days following the issuance of the invoice.
- 6.1.2 In the event that the dispute cannot be resolved during this period, and if the object of the dispute, excluding the interest, administrative fees and penalties exceeds \$100,000.00, the Targeted Person may notify Éco Entreprises Québec in writing by way of a "Notice of dispute" within sixty (60) days following the issuance of the invoice, indicating therein the grounds for contestation as well as their intention to submit the dispute either to mediation and, in the case of

failure, to arbitration, or directly to arbitration. Following receipt of said notice, the parties will either proceed to mediation, and, in the case of failure, to arbitration, or directly to arbitration, as the case may be, in conformity with the procedures of mediation or arbitration adopted by Éco Entreprises Québec that are in effect at the date of the Notice of dispute. These procedures may be consulted on the website of Éco Entreprises Québec www.eeq.ca.

- 6.1.3 By invoking the mediation and/or arbitration procedures provided at section 6.1.2 of the Schedule, the parties exclude any recourse before the common law tribunals, except for provisional measures.

7. ADJUSTMENTS

7.1 ADJUSTMENTS

- 7.1.1 In the case where, for a particular Class of Materials, Éco Entreprises Québec collects, following the expiry of the twenty-four (24) month period following the date where the balance for the payable contribution is due as prescribed by section 4.3.1 of the Schedule, an amount that exceeds by 4% the required amount to be paid for this Class of Materials, for one (1) year where said amounts become due, a) the amount of the compensation determined by the Société québécoise de récupération et de recyclage, including the interest, administrative fees and applicable penalties, as the case may be, b) the amount necessary to indemnify Éco Entreprises Québec for its management costs and other expenses related to the compensation regime, as well as, c) the amount payable to the Société québécoise de récupération et de recyclage pursuant to section 53.31.18 of the Act (this last amount being identified in the present Chapter, as being the "required amount"), Éco Entreprises Québec issues a credit to Targeted Persons that have paid the contribution for the Obligation Year in which the surplus has accumulated. This credit will correspond to the amount collected above the exceeding 4% and is redistributed pro rata amongst the payable contributions by sub-class of Materials within each class, and then, by pro rata amongst the contributions paid by the Targeted Persons within each sub-class.
- 7.1.2 In the case where Éco Entreprises Québec does not collect the required amount for a Class of Materials following the expiry of the twenty-four (24) month period following the date where the balance for the payable contribution is due pursuant to section 4.3.1 of the Schedule, Éco Entreprises Québec can require from Targeted Persons for this Class of Materials the amount needed to satisfy the difference. This amount is distributed pro rata amongst the required contributions by a sub-class of Materials within this Class and then, by pro rata amongst the required contributions for each Targeted Person within each sub-class. This amount must be paid to Éco Entreprises Québec by the Targeted Persons within thirty (30) days following the transmission of an invoice to this effect by Éco Entreprises Québec. The divisions 4.4 and 4.5 of the Schedule are applicable for this amount by making the necessary modifications.

If Éco Entreprises Québec judges that it will most likely not be able to collect the amount necessary for a Class of Materials, at the expiry of a twenty-four (24) month period following the date at which the balance of the payable contribution is payable pursuant to section 4.3.1 of the Schedule, Éco Entreprises Québec can, at any moment, require an amount that it deems necessary to satisfy the difference. This amount is distributed pro rata amongst the required contributions by sub-class of Materials within this Class, and then, pro rata amongst the required contributions to be paid by the Targeted Persons within each sub-class. This amount must be paid to Éco Entreprises Québec by the Targeted Persons within thirty (30) days following the transmission of an invoice to this effect by Éco Entreprises Québec. The divisions 4.4 and 4.5 of the Schedule are applicable to this amount by making the necessary modifications.

8. EFFECTIVE DATE AND DURATION

8.1 EFFECTIVE DATE

The Schedule shall be effective on the day of its publication in the *Gazette officielle du Québec*, which is on July 4, 2018.

8.2 DURATION

The Schedule is valid for the 2018 Obligation Year.

APPENDIX A: 2018 CONTRIBUTION TABLE

Contributions for the period from January 1st through December 31st, 2017¹

Class of Materials	Sub-class of Materials	Materials	Annualized contributions ¢/kg	Credit for recycled content (Threshold to achieve ²)
Printed matter		• Newsprint inserts and circulars	18,865	80%
		• Catalogues and publications	27,921	50%
		• Magazines	27,921	50%
		• Telephone books	27,921	80%
		• Paper for general use		80%
		• Other printed matter	27,921	
Containers and Packaging	Paperboard	• Corrugated cardboard	17,641	n/a
		• Kraft paper shopping bags	17,892	100 %
		• Kraft paper packaging	17,892	100 %
		• Boxboard and other paper packaging	19,263	n/a
		• Gable-top containers	18,674	n/a
		• Paper laminants	27,598	100 %
		• Aseptic containers	22,236	n/a
	Plastics	• PET bottles	27,248	100 %
		• HDPE bottles	10,495	100 %
		• Plastic laminants	44,249	n/a
		• Plastic HDPE and LDPE films	44,249	n/a
		• HDPE, LDPE plastic shopping bags	44,249	n/a
		• Expanded Polystyrene – food packaging	74,572	n/a
		• Expanded Polystyrene – cushioning packaging	74,572	n/a
		• Non expanded Polystyrene	74,572	n/a
		• PET containers	27,248	100 %
		• PVC, polylactic acid (PLA) and other degradable plastics	74,572	n/a
		• Other plastics, polymers and polyurethane	27,392	n/a
	Aluminum	• Food and beverages aluminum containers	17,020	n/a
		• Other aluminum packaging		
	Steel	• Steel aerosol containers	16,579	n/a
		• Other steel containers		
	Glass	• Clear glass	17,973	n/a
		• Coloured glass	17,993	n/a

¹ For the calculation of the contribution for the 2018 Obligation Year, the Targeted Persons must, without fail, for the purposes of the application of Chapters 4 and 5 of the Schedule, declare the materials that were marketed in Québec for the twelve (12) months comprised between January 1st and December 31st of the Reference Year, that is prescribed in division 4.1 of the Schedule.

² A credit of 20% for the payable contribution is granted to Targeted Persons that generate materials of which the percentage (%) of recycled **post-consumer** content reaches or exceeds the established benchmark, when the Materials report is submitted within the prescribed delays. The credit is granted by way of a distinct invoice that is issued in the year following the deadline to submit the Materials report. The **appropriate documentation** to determine the content of **post-consumer** recycled material **must be provided** to Éco Entreprises Québec **before the deadline to pay the contribution**. The content of the recycled material is an element which is taken into consideration when calculating the payable contribution pursuant to section 53.31.14, paragraph 2 of the Act.

APPENDIX B: ESTABLISHMENT IN QUÉBEC

For the purposes of this Appendix, a Targeted Person is referred to as "enterprise".

If an enterprise does not have its head office, which constitutes its domicile, in the Province of Québec, it may still have one or several establishments in the Province.

Here are some non-exhaustive examples provided solely as a guide to assist in determining whether an enterprise has an establishment in Québec for the purposes of the Schedule:

- a) The enterprise indicates an address in Québec in the "Établissements" section of the report it filed with the Registraire des entreprises du Québec or in its corporate bylaws or regulations.
- b) Insurance companies or financial institutions:
An enterprise that offers insurance or financial products in Québec and holds a license issued by the Autorité des marchés financiers ("AMF") is deemed to have an establishment in Québec.
- c) The owner of immovable property in the province:
When an enterprise owns an immovable in Québec, that immovable is presumed to be an establishment.
- d) An enterprise using equipment or machinery in the province:
When an enterprise does not have a fixed place of business in the province, it may still have an establishment at the place where it uses an important quantity of machinery or material for a particular moment within a reference year. Said enterprise is then deemed to have an establishment at such place.
- e) Commercial activities in the province related to raw materials:
When the activities of an enterprise consist of producing, growing, excavating, mining, creating, manufacturing, improving, transforming, preserving or constructing, in full or in part, anything in Québec, whether or not the sale of the thing occurs in Québec or elsewhere, this activity will allow us to conclude that the enterprise possessed an establishment in Québec in the year in which the activity took place.
- f) A representative in Québec:
The establishment of an enterprise signifies a fixed place or a principal place where it carries on business. An establishment also includes an office, a residence, a branch, a mine, a gas or oil well, an agricultural endeavor, a woodlot, a factory, a storage facility or a workshop.

When an enterprise is operated or represented through an employee, an agent or a mandatary who is established at a particular place and has general authority to contract for his employer or mandator, or who possesses an inventory of merchandise belonging to the employer or mandator that is used to regularly fill orders that such employee, agent or mandatary receives, the enterprise is deemed to have an establishment at this place, even if the orders are sometimes placed with a distribution center that is situated outside of Québec.

- g) Commission agent, broker, other independent agent or subsidiary:
An enterprise is not deemed to have an establishment by the sole fact that it has a business relationship with someone else through a commission agent, a broker or any other independent agent, or by the fact that it maintains an office or a warehouse for the sole purpose of purchasing merchandise; it will also not be deemed to have an establishment in a place for the sole reason that it controls a subsidiary that itself carries on business in the province.

Attention: A person acting as an "attorney for service" for a legal person that is registered at the Registraire des entreprises du Québec does not constitute an element that would be considered sufficient to determine that the legal person has an establishment in Québec.