

CONSIDERING that it is expedient to amend the Regulation;

CONSIDERING the authorization obtained from the Conseil du trésor in accordance with the third paragraph of section 487.2 of the Act respecting health services and social services;

CONSIDERING that it is expedient to make the Regulation to amend the Regulation respecting certain terms of employment applicable to officers of agencies and health and social services institutions;

ORDERS AS FOLLOWS:

The Regulation to amend the Regulation respecting certain terms of employment applicable to officers of agencies and health and social services institutions, attached to this Order, is hereby made.

CHRISTIAN DUBÉ,
Minister of Health and Social Services

Regulation to amend the Regulation respecting certain terms of employment applicable to officers of agencies and health and social services institutions

An Act respecting the health services and social services (chapter S-4.2, s. 487.2)

1. The Regulation respecting certain terms of employment applicable to officers of agencies and health and social services institutions (chapter S-4.2, r. 5.1) is amended in section 29.0.3 by replacing the first paragraph by the following:

“An officer working in a locality in the Far North region determined by the Minister receives an attraction and retention allowance for a period not exceeding the period provided for in the collective agreements in force in the health and social services sector for such an allowance.”.

2. Section 29.0.4 is amended by replacing the first paragraph by the following:

“An officer of the psychologist profession who is a member of the Ordre des psychologues du Québec carrying out a duty whose nature of the position corresponds to the training and profession required to hold such a managerial duty receives an attraction and retention allowance according to the same terms and conditions as those for psychologists in the health and social services sector.”;

3. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

104927

M.O., 2021

Order of the Minister of Finance dated 3 March 2021

Taxation Act
(chapter I-3)

CONCERNING the Mandatory Transaction Disclosure Regulation

THE MINISTER OF FINANCE,

CONSIDERING the first paragraph of section 1079.8.1 of the Taxation Act (chapter I-3), amended by section 165 of the Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures (2020, chapter 16), providing among other things that the expression “specified transaction” carried out by a taxpayer or a partnership means a transaction whose form and substance of the facts specific to the taxpayer or the partnership are significantly similar to the form and the substance of the facts of a transaction determined by the Minister;

CONSIDERING the fourth paragraph of section 1079.8.1 of the Taxation Act, added by section 165 of the Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures, providing that for the purposes of Book X.2 of Part I of the Taxation Act, in relation to a transaction determined by the Minister under the definition of “specified transaction” in the first paragraph of that section 1079.8.1, the Minister also determines which taxpayers will be required, pursuant to section 1079.8.6.2 of that Act, enacted by section 166 of the Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures, to disclose a specified transaction and which will be the partnerships whose members will be subject to that obligation, if applicable, as well as the day from which the obligation to disclose specified transactions will apply;

CONSIDERING section 1079.8.6.3 of the Taxation Act, enacted by section 166 of the Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures, providing that an information return must be filed in respect of a transaction that an advisor or a promoter commercializes or promotes, if the form and the substance of the facts of

the transaction are significantly similar to the form and the substance of the facts of a transaction determined by the Minister;

CONSIDERING paragraph 2 of section 12 of the Regulations Act (chapter R-18.1) providing that a proposed regulation may be made without having been published as provided for in section 8 of the Act, if the authority making it is of the opinion that the proposed regulation is designed to establish, amend or repeal norms of a fiscal nature;

CONSIDERING section 13 of that Act providing that the reason justifying the absence of such publication must be published with the regulation;

CONSIDERING section 18 of that Act providing that a regulation may come into force on the date of its publication in the *Gazette officielle du Québec*, where the authority that has made it is of the opinion that the regulation establishes, amends or repeals norms of a fiscal nature, and that the reason justifying such coming into force must be published with the regulation;

CONSIDERING the Minister's opinion that the regulation attached to this Order establishes norms of a fiscal nature;

CONSIDERING that it is expedient to make the Mandatory Transaction Disclosure Regulation;

ORDERS AS FOLLOWS:

THAT the Mandatory Transaction Disclosure Regulation, attached to this Order, is hereby made.

Québec, 3 March 2021

ERIC GIRARD,
Minister of Finance

Mandatory Transaction Disclosure Regulation

Taxation Act
(chapter I-3, s. 1079.8.1, 1st par., “specified transaction” and 4th par. and s. 1079.8.6.3)

1. In this Regulation, unless the context indicates a different meaning,

“Act” means the Taxation Act (chapter I-3);

“exempt property” has the meaning assigned by section 652.1 of the Act;

“Minister” means the Minister of Revenue;

“qualified small business corporation share” has the meaning assigned by section 726.6.1 of the Act;

“specified transaction” has the meaning assigned by section 1079.8.1 of the Act;

“transaction” has the meaning assigned by section 1079.8.1 of the Act.

For the purposes of this Regulation,

(a) the definition of “regulation” in section 1 of the Act is to be read as if “by the Government” were replaced by “by the Government or the Minister”;

(b) Titles I and II of Book I of Part I of the Act apply.

2. For the purposes of the definition of “specified transaction” in the first paragraph of section 1079.8.1 of the Act and section 1079.8.6.3 of the Act, the transactions determined by the Minister are the transactions described in Schedule A.

For the purposes of the fourth paragraph of section 1079.8.1 of the Act, Schedule A sets forth, in respect of each specified transaction, the taxpayers subject to the disclosure obligation and, if applicable, the partnerships whose members are subject to that obligation, as well as the day on and after which that obligation applies.

3. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE A

(*ss. 1079.8.1 and 1079.8.6.3*)

TRANSACTION 1 AVOIDANCE OF DEEMED DISPOSAL OF TRUST PROPERTY

A transaction that includes the following facts is hereby determined by the Minister:

(a) a trust is resident in Québec at any time in the course of the transaction;

(b) the trust holds at that time a particular property that is a capital property or land included in the inventory of a business of the trust;

(c) the particular property is not exempt property;

(d) at a particular time in the course of the transaction, the trust distributes the particular property and is deemed to dispose of it for proceeds of disposition that are less than its fair market value immediately before that time;

(e) the disposition referred to in subparagraph *d* results in the trust not being deemed to dispose of the particular property under section 653 of the Act at the end of a day described in any of subparagraphs *a* to *c* of the first paragraph of that section 653, nor to reacquire the particular property immediately after that day; and

(f) after the particular time referred to in subparagraph *d*, a trust holds, directly or indirectly, the particular property or another property whose fair market value is derived, directly or indirectly, from the particular property, or so holds property substituted for the particular property or for the other property, as the case may be.

A trust that is a party to a specified transaction in relation to a transaction referred to in the first paragraph is required to disclose the specified transaction.

The obligation to disclose the specified transaction applies as of the day that includes the particular time referred to in subparagraph *d* of the first paragraph.

TRANSACTION 2 PAYMENT TO A NON-TREATY COUNTRY

A transaction that includes the following facts is hereby determined by the Minister:

(a) a particular person or a particular partnership in respect of which any of the following conditions is met is a party to the transaction:

i. in the case of a person that is an individual or a trust, the person is resident in Québec at the end of a particular taxation year in which the transaction occurs;

ii. in the case of a person that is a corporation, the person has an establishment in Québec at any time in a particular taxation year in which the transaction occurs; or

iii. in the case of a partnership, each member of the partnership is required, under section 1086R78 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), to file an information return for a particular fiscal period of the partnership in which the transaction occurs;

(b) the transaction relates, in any manner whatever, to a business carried on in Québec by the particular person in the course of the particular taxation year, except a business the person carries on as a member of a partnership, or by the particular partnership in the particular fiscal period;

(c) another person that is not resident in Canada and with whom the particular person or the particular partnership or a member of the particular partnership, as the case may be, does not deal at arm's length in the particular taxation year or particular fiscal period, as the case may be, or another partnership of which such other person is a member, is a party to the transaction, if

i. the other person at any time in the particular taxation year is resident in a country with which the Government of Québec or of Canada at that time has not entered into a tax agreement; or

ii. the other partnership at any time in the particular fiscal period carries on a business in a country with which the Government of Québec or of Canada at that time has not entered into a tax agreement; and

(d) the particular person or the particular partnership deducts in computing income under Part I of the Act for the particular taxation year or particular fiscal period, as the case may be, a total amount of not less than \$1,000,000 relating to amounts each of which is paid or payable to the other person or other partnership referred to in subparagraph *c*, other than an amount paid or payable as consideration for the acquisition of corporeal property.

For the purposes of subparagraph *c* of the first paragraph, a person resident in a dependency, possession, department, protectorate or region of a country with which the Government of Québec or of Canada has entered into a tax agreement and to which the provisions of the tax agreement do not apply is considered to be resident in a country with which the Government of Québec or of Canada has not entered into a tax agreement.

For the purposes of the first paragraph, a person that is a member of a partnership that itself is a member of another partnership is deemed to be a member of that other partnership.

The particular person or the members of the particular partnership are required to disclose a specified transaction in relation to a transaction referred to in the first paragraph.

The obligation to disclose the specified transaction applies as of the day that is 60 days before the particular person's filing due-date for the person's particular taxation year or before the filing due-date of the member of the particular partnership for the member's taxation year in which the particular fiscal period ends, as the case may be.

TRANSACTION 3 MULTIPLICATION OF THE CAPITAL GAINS DEDUCTION

A transaction that includes the following facts is hereby determined by the Minister:

(a) an individual subject to tax under Part I of the Act or a trust under which the individual is a beneficiary disposes of a share of the capital stock of a Canadian-controlled private corporation;

(b) the share is a qualified small business corporation share;

(c) in respect of the disposition, the individual deducts an amount under section 726.7.1 of the Act in computing taxable income for a taxation year; and

(d) either of the following conditions is met:

i. the individual transfers or loans, directly or indirectly, in any manner whatever, including by means of a trust or a corporation, or by repayment of existing indebtedness, an amount that may reasonably be considered to be, directly or indirectly, part or all of the proceeds of the disposition of the share, to either

(1) a particular person that is a shareholder of the corporation referred to in subparagraph *a* or would be such a shareholder if section 21.18 of the Act applied and were read without reference to “specified”, wherever that term appears, or that was previously such a shareholder of the corporation; or

(2) a person that does not deal at arm’s length with the particular person; or

ii. the individual acquired a share of a person who is the individual’s spouse as part of a transfer referred to in section 454 of the Act and a valid election under the second paragraph of that section 454 was made by the individual’s spouse, with the result that the provisions of section 454 do not apply to the transfer.

For the purposes of the first paragraph, an individual who expressly or implicitly undertook to transfer or loan part or all of the proceeds of the disposition of a share is deemed to have made the transfer or loan at the time of the undertaking.

An individual referred to in the first paragraph is required to disclose a specified transaction in relation to a transaction referred to in the first paragraph.

The obligation to disclose the specified transaction applies as of,

(a) if the day of the transfer or loan referred to in subparagraph *i* of subparagraph *d* of the first paragraph is before the day on which the share referred to in subparagraph *a* of that paragraph is disposed of, the day of the disposition; or

(b) if the day of the transfer or loan referred to in subparagraph *i* of subparagraph *d* of the first paragraph is the day on which the share referred to in subparagraph *a* of that paragraph is disposed of or is later than that day, the day of the transfer or loan.

TRANSACTIONS 4 TAX ATTRIBUTE TRADING

The following transactions are hereby determined by the Minister:

(a) a transaction in relation to a tax attribute, contemplated by the definition of “attribute trading restriction” in section 21.4.2.1 of the Act, that is generated in respect of a taxpayer, referred to in this subparagraph as the “initial taxpayer”, other than a tax-exempt taxpayer, as part of the transaction or before the beginning of the transaction, if the transaction includes the following facts:

i. a particular taxpayer is subject to tax under Part I of the Act at a particular time in the transaction; and

ii. the particular taxpayer uses the tax attribute generated in respect of the initial taxpayer;

(b) a transaction in relation to a tax attribute, contemplated by the definition of “attribute trading restriction” in section 21.4.2.1 of the Act, that is generated in respect of a corporation or a trust, referred to in this subparagraph as the “specific taxpayer”, other than a tax-exempt taxpayer, as part of the transaction or before the beginning of the transaction, if the transaction includes the following facts:

i. a person or a partnership acquires,

(1) if the specific taxpayer is a corporation, a share of the capital stock of the specific taxpayer or a right referred to in paragraph *b* of section 20 of the Act relating to such a share; or

(2) if the specific taxpayer is a trust, a capital interest or an income interest in the specific taxpayer or a right, whether immediate or future and whether absolute or contingent, to such an interest;

ii. the specific taxpayer is subject to tax under Part I of the Act at a particular time in the transaction;

iii. the specific taxpayer uses the tax attribute;

iv. if the specific taxpayer carried on a business prior to the beginning of the transaction, either, or both, of the following conditions are met:

(1) the specific taxpayer ceases to carry on the business in the course of the transaction; or

(2) the specific taxpayer begins to carry on a new business in the course of the transaction; and

v. the use of the tax attribute to which subparagraph iii refers is one of the results derived, directly or indirectly, from the acquisition by the person or the partnership of the share, the right to a share, an interest or the right to an interest referred to in subparagraph i.

For the purposes of subparagraph ii of subparagraph *a* of the first paragraph and subparagraph iii of subparagraph *b* of that paragraph, a taxpayer that is a member of a partnership that generates or uses a tax attribute is deemed to generate or use the tax attribute.

For the purposes of subparagraph *a* of the first paragraph, “tax-exempt taxpayer” means

(*a*) a taxpayer in respect of whom section 21.4.2.3 of the Act applies in relation to the tax attribute referred to in that subparagraph *a*; and

(*b*) a taxpayer with whom the particular taxpayer is affiliated.

For the purposes of subparagraph *b* of the first paragraph, “tax-exempt taxpayer” means a taxpayer in respect of whom section 21.4.2.3 of the Act applies in relation to the tax attribute referred to in that subparagraph *b*.

The particular taxpayer referred to in subparagraph *a* of the first paragraph is required to disclose a specified transaction in relation to a transaction referred to in that subparagraph *a*.

The specific taxpayer, within the meaning of subparagraph *b* of the first paragraph, is required to disclose a specified transaction that relates to a transaction referred to in that subparagraph *b*.

The obligation to disclose the specified transaction in relation to a transaction referred to in subparagraph *a* of the first paragraph applies as of the day that is 60 days

before the particular taxpayer’s filing due-date for the first taxation year in respect of which the particular taxpayer uses the tax attribute referred to in that subparagraph *a*.

The obligation to disclose the specified transaction in relation to a transaction referred to in subparagraph *b* of the first paragraph applies as of the day that is 60 days before the specific taxpayer’s filing due-date for the first taxation year in respect of which the specific taxpayer uses the tax attribute referred to in that subparagraph *b*.

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