

Income Tax

IMP. 1029.8.17-1/R1 Government Assistance, Non-government Assistance and Contract Payment
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Reference(s): *Taxation Act* (R.S.Q., c. I-3), sections 87 (paragraph *w*), 222 to 225, 980 to 985, 985.23 to 999.1, 1029.7, 1029.8, 1029.8.0.2, 1029.8.6, 1029.8.7, 1029.8.7.2, 1029.8.9.1, 1029.8.10, 1029.8.11, 1029.8.16, 1029.8.17, 1029.8.18, and 1029.8.18.1
Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r.1, as amended), sections 87R4 (paragraph *d*), 1029.8.17R1, and 1029.8.17R2

This bulletin cancels and replaces bulletin IMP. 1029.8.17-1 of November 29, 1991.

This bulletin analyses the notions of government assistance, non-government assistance and contract payment. These notions were introduced into the *Taxation Act* (the “Act”) for the purpose of computing the credit for scientific research and experimental development (“SR & ED”) provided for, in particular, in section 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.10 or 1029.8.11 of the Act. Furthermore, under paragraph *b* of section 225 of the Act, the notions of government assistance and non-government assistance defined in section 1029.8.17 of the Act also apply for the purpose of reducing the SR & ED expenditures that may be deducted by a taxpayer in computing his income from a business under sections 222 to 224 of the Act. In this bulletin, the expression SR & ED refers to SR & ED within the meaning of the regulations made under section 222 of the Act.

APPLICATION OF THE ACT

Government Assistance

1. The notion of government assistance is defined in paragraph *a* of section 1029.8.17 of the Act and means assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than a prescribed amount. Under section 1029.8.17R1 of the *Regulation respecting the Taxation Act* (the “Regulation”), a prescribed amount is an amount that can reasonably be attributed to expenditures that are qualified expenditures in respect of SR & ED and that would be determined under subsection 5 or 6 of section 127 of the *Income Tax Act* (Statutes of

Canada) if the words “after April 30, 1987” were substituted for the words “after March 31, 1977” in the definition of the expression “qualified expenditure” provided in subsection 9 of that section.

2. Under section 1029.8.21.2 of the Act, the various refundable tax credits for SR & ED provided in the Act are deemed not to be government assistance or an inducement received from a government.

Non-government Assistance

3. Non-government assistance is defined in paragraph *b* of section 1029.8.17 of the Act and means an amount that would be included in computing the income of a taxpayer by virtue of paragraph *w* of section 87 of the Act if that paragraph were read without reference to subparagraphs *ii* and *iii* thereof.

4. Further to that reading, therefore, a taxpayer should include in computing his income from a business or property for a taxation year, any amount, other than a prescribed amount, received by the taxpayer in the year, in the course of earning income from a business or property

(a) from a person who pays the amount in the course of earning income from a business or property or in order to achieve a benefit or advantage for himself or for persons with whom he does not deal at arm’s length, or

(b) from a government, municipality or other public authority,

where the amount can reasonably be considered to have been received as a reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of the cost of property or in respect of an expense, or as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, to the extent that the amount;

(c) was not otherwise included in computing the taxpayer’s income for the year or a preceding taxation year; and

(d) may not reasonably be considered to be a payment made in respect of the acquisition by the person or the public authority of an interest in the taxpayer, his business or his property.

It should be noted that the investment tax credit provided for in subsections 5 and 6 of section 127 of the federal act is, among other amounts, an amount prescribed by regulation for the purposes of paragraph *w* of section 87 of the Act pursuant to paragraph *d* of section 87R4 of the Regulation and therefore, is excluded from the application of this article and the definition of non-government assistance.

5. The various refundable tax credits for SR & ED provided for in the Act are not considered by the Ministère du Revenu to be amounts that must be included in computing the income of a taxpayer under paragraph *w* of section 87 of the Act.

6. In other respects, paragraph *w* of section 87 of the Act referred to in the definition of non-government assistance, covers amounts received from a government, municipality or other

public authority that must be included in computing the income of a taxpayer for a taxation year in the course of earning income from a business or property, whereas the definition of government assistance discussed above covers amounts that are not necessarily received from any of these entities, but which originate from them. Moreover, paragraph *w* refers to an amount that can reasonably be considered to have been received as a reimbursement, contribution, allowance or as assistance in respect of the cost of property or in respect of an expense, or as an inducement.

Contract Payment

7. A contract payment is defined in paragraph *c* of section 1029.8.17 of the Act as:

- (a) an amount payable by a person resident in Canada or by a person not resident in Canada but carrying on a business in Canada, for SR & ED related to the business of that person; or
- (b) an amount, other than a prescribed amount, payable by the Government of Canada or a provincial government, a municipality or other Canadian public authority or by a person exempt from tax under Part I of the Act by virtue of sections 980 to 985 and 985.23 to 999.1 of the Act for SR & ED to be performed for the authority or person, or on their behalf.

8. It should be noted that where an amount is payable by a person not resident in Canada and who does not carry on a business there, that amount payable does not constitute a contract payment.

9. The amount prescribed by regulation for the purposes of the provision of the Act mentioned in 7(b) above is, pursuant to section 1029.8.17R2 of the Regulation, an amount received from the Canadian Commercial Corporation as an amount received by that Corporation from a government, municipality or other public authority other than the Government of Canada or a provincial government, a Canadian municipality or other Canadian public authority.

Rule Applicable to the Computation of the Amount of a Credit

10. Section 1029.8.18 of the Act provides that for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year, pursuant to one of sections 1029.7, 1029.8, 1029.8.0.2, 1029.8.6, 1029.8.7, 1029.8.7.2, 1029.8.10 or 1029.8.11 of the Act, the amount of the wages or of part of the remuneration paid or of another expenditure that entitles to a credit for SR & ED provided in the Act, as the case may be, shall be reduced, where such is the case, by the amount of any contract payment, government assistance or non-government assistance attributable to the wages or to part of the remuneration paid or to the expenditure, as the case may be, that the taxpayer or, where the taxpayer is a member of a partnership, the partnership of which he is a member has received, is entitled to receive or can reasonably be expected to receive at the time of filing of his fiscal return for that taxation year.

11. Section 1029.8.18 of the Act applies in respect of SR & ED expenditures made by a taxpayer after April 30, 1987, or made by a partnership after May 16, 1989. However, where it applies to an expenditure made before May 13, 1988, section 1029.8.18 of the Act shall be read without reference to sections 1029.8.7.2, 1029.8.10 and 1029.8.11 of the Act.

Repayment of Assistance

12. Section 1029.8.18.1 of the Act states that where, at any particular time, a taxpayer or a partnership pays a particular amount that may reasonably be considered to be the repayment of assistance which is government assistance or non-government assistance and that has reduced a particular expenditure for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer or a member of the partnership, as the case may be, under sections 1029.7 to 1029.8.16 of the Act, the particular amount is deemed, for the purposes of the said sections, to be an expenditure in respect of SR & ED made at that particular time by the taxpayer or the partnership, as the case may be, on the same basis as was the particular expenditure.

The effect of section 1029.8.18.1 of the Act is that the repayment of government or non-government assistance which, in accordance with section 1029.8.18 of the Act, reduced a particular expenditure for the purpose of computing the tax credit for SR & ED granted in respect of the expenditure, may constitute an expenditure giving entitlement to this tax credit in the year of repayment.

13. Section 1029.8.18.1 of the Act applies in respect of a repayment of assistance which reduced an expenditure for SR & ED made after April 30, 1987. Where it applies before May 13, 1988, though, that part of section 1029.8.18.1 of the Act preceding paragraph *a* shall be read by replacing the figure “11.3” by “11.2” (i.e., without reference to sections 1029.8.9.1 to 1029.8.16 of the Act).

Application Date

14. The definitions of government assistance, non-government assistance, and contract payment apply in respect of SR & ED expenditures made after April 30, 1987.