REVENU QUÉBEC

INTERPRETATION AND ADMINISTRATIVE BULLETIN CONCERNING THE LAWS AND REGULATIONS

Income Tax

IMP. 134-1/R2 — **Recreational Facilities, Club Fees and the Deductibility of Expenses for Meals and Beverages Consumed on the Site of a Golf Club**

Date of publication: **September 30, 2020**

Reference(s): *Taxation Act* (CQLR, c. I-3), sections 37.1.5, 99, 134 and 421.1 to 421.4
Regulation respecting the Taxation Act (CQLR, c. I-3, r. 1), article 130R101

This version of interpretation bulletin IMP. 134-1 supersedes the version dated November 30, 2004, and the March 31, 2004, version of interpretation bulletin IMP. 134-2, entitled "The Deductibility of Expenses for Meals and Beverages Consumed on the Site of a Golf Club." However, the interpretations given in the superseded versions remain unchanged and are included in this bulletin. The consolidation of the aforementioned bulletins has resulted in changes only to style and conformity.

This bulletin gives Revenu Québec's position concerning the deduction of expenses related to the use or maintenance of recreational facilities, specifically with regard to expenses for meals and beverages consumed on the site of a golf club, capital cost allowance in respect of such facilities and the deduction of outlays or expenditures for club fees and gifts and awards.

EXPENSES RELATED TO THE USE OR MAINTENANCE OF RECREATIONAL FACILITIES

1. The *Taxation Act* (TA) limits and restricts the deduction of expenses in calculating income from a business or property. In general, an expense cannot be deducted unless the taxpayer incurred it to earn income from a business or property, it is reasonable in the circumstances and it does not constitute personal or living expenses.

2. The first paragraph of section 134 of the TA provides that, in calculating a taxpayer's income from a business or property, no deduction is allowed in respect of an amount disbursed or expended by the taxpayer after 1971 for the use or maintenance of a yacht, a lodge, a camp or a golf course or facility, unless the taxpayer's business provides any of the foregoing for hire or reward and such outlay or expense is made or incurred in the ordinary course of such business.

3. The first paragraph of section 134 of the TA covers not only taxpayers who own the property described therein but also taxpayers who rent, or use but do not own, such property. In all of these cases, the use of the property may be by the taxpayer or by the taxpayer's clients, suppliers, shareholders or employees.

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4. The term “facility” used in point 1 of this bulletin refers to a golf course and includes amenities, such as a fitness centre, a pool or tennis courts, provided by a golf club.

The use of a restaurant that constitutes the use of a golf facility

5. Under the first paragraph of section 134 of the TA, the use of a restaurant located on the site of a golf club generally constitutes the use of a golf facility. However, for the purposes of said paragraph, the question of whether the meal and beverage expenses were incurred for the use of a golf facility is a question of fact.

6. Where, as part of a golf tournament, a golf package or another organized recreational activity at a golf club, meals and beverages are consumed at a restaurant located on the site of the golf club, the meal and beverage expenses are regarded as having been incurred for the use of golf facilities and are covered under the first paragraph of section 134 of the TA.

7. Even if meal and beverage expenses are listed separately on an invoice, they may still be regarded as part of the tournament, package or organized activity, and as having been incurred for the use of a golf facility.

8. The meal, beverage and other expenses of a taxpayer or the taxpayer’s guests that are part of a lump sum which, if not expended at the golf club during the year, will be invoiced to the member at the end of the year or will not be reimbursed to the member, as the case may be, are also regarded as expenses incurred for the use of golf facilities that, under the first paragraph of section 134 of the TA, may not be deducted in calculating income from a business or property.

Meal and beverage expenses that do not constitute expenses incurred for the use of golf facilities

9. It is Revenu Québec’s opinion that an amount disbursed or expended for meals or beverages consumed in a restaurant located on the site of a golf club may not always be regarded as an amount disbursed or expended for the use of a golf facility.

10. Thus, an amount that is disbursed or expended solely for the purpose of consuming meals or beverages in a restaurant located on the site of a golf club is not an amount disbursed or expended for the use of a golf facility. In particular, this may be the case where a person disburses or expends an amount to consume a meal or beverage before or after a round of golf or another sports activity, regardless of whether the person played or is playing golf. Section 421.1 of the TA (subject to certain exceptions, including the one mentioned in point 18 of this bulletin) provides that such meal and beverage expenses are deemed to be equal to 50% of the lesser of the amount paid or payable in respect thereof, and an amount in respect thereof that would be reasonable in the circumstances (hereinafter the “50% limit”). Moreover, these expenses cannot exceed the amount calculated in accordance with the rules provided for in section 175.6.1 of the TA.

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ISSN 0822-3726

CAPITAL COST ALLOWANCE

Property acquired before January 1, 1975

11. Capital cost allowance may be claimed in respect of property referred to in point 2 of this bulletin if the property was acquired before January 1, 1975, for the purpose of gaining income from any type of business, even if the amounts disbursed or expended by the taxpayer for the use or maintenance of such property are not deductible by virtue of the first paragraph of section 134 of the TA.

12. Property acquired after December 31, 1974, is deemed to have been acquired before January 1, 1975, if:

(a) the taxpayer was obliged to acquire the property under the terms of an agreement in writing entered into before November 13, 1974; or

(b) construction of the property was begun by the taxpayer before November 13, 1974, or was begun under an agreement in writing entered into by the taxpayer before that date, and, in each case, it is substantially completed according to plans and specifications agreed to by the taxpayer before that date.

Property acquired on or after January 1, 1975

13. A capital cost allowance may be claimed for a taxation year in respect of property referred to in point 2 of this bulletin and acquired on or after January 1, 1975, if the sole commercial purpose of the property during that year was its rental as part of the taxpayer's regular business. If, during that same year, the property was also used by the taxpayer for non-commercial purposes, an apportionment of its capital cost is required in accordance with paragraph (c) of section 99 of the TA.

14. No capital cost allowance may be claimed for a taxation year in respect of property referred to in point 2 of this bulletin and acquired on or after January 1, 1975, if, at any time during that year, the property was used for a commercial purpose other than the one referred to in point 13 of this bulletin.

15. No capital cost allowance may be claimed in respect of property referred to in point 2 of this bulletin and acquired on or after January 1, 1975, if a portion of the amounts disbursed or expended by the taxpayer for the use or maintenance of the property is not deductible by reason of the first paragraph of section 134 of the TA.

CLUB FEES

16. The second paragraph of section 134 of the TA denies the deduction of amounts disbursed or expended as fees or dues, whether membership dues, initiation fees or otherwise, in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

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GIFTS AND AWARDS

17. The third paragraph of section 134 of the TA provides for an exception to the rule set out in the first two paragraphs of that section where the amount referred to therein is a gift or an award within the meaning of section 37.1.5 of the TA. Under the latter section, where an individual receives in a year, from the individual's employer, certain gifts marking special occasions, or awards in recognition of certain achievements, the first $500 of the value of such gifts and the first $500 of the value of such awards are not subject to tax.

18. Note that under this exception, it is the full amount (not just the first $500) that constitutes a gift or an award within the meaning of section 37.1.5 of the TA that is exempted from the application of the first two paragraphs of section 134 of the TA. Moreover, as provided in subparagraph (d) of the first paragraph of section 421.2 of the TA, the 50% limit described in point 10 of this bulletin does not apply to this amount (the first $500 being covered by section 37.1.5 of the TA and any amount in excess of that first $500 being included in calculating the individual's income because of the application of Chapters I and II of Title II of Book III of Part I of the TA).

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ISSN 0822-3726