

Income Tax

IMP. 22-2/R2

Treatment of a business loss attributable to an establishment in Canada, outside Québec, for the purpose of computing income earned in Québec

Date of publication:

May 13, 2020

Reference(s):

Taxation Act (CQLR, c. I-3), s. 22 (2nd par.)
Regulation respecting the Taxation Act (CQLR, c. I-3, r. 1), ss. 22R1–22R21

This version of bulletin IMP. 22-2 supersedes the version of February 28, 2006.

This bulletin sets forth the policy of the Ministère du Revenu du Québec concerning the treatment, for the purpose of computing income earned in Québec, of a business loss that is attributable to an establishment in Canada, outside Québec, and incurred by an individual resident in Québec on the last day of a taxation year.

APPLICATION OF THE ACT

1. Every individual who is resident in Québec on the last day of a taxation year and who carries on a business in Canada, outside Québec, must pay, under the second paragraph of section 22 of the *Taxation Act* (TA), tax equal to the proportion of the tax determined under sections 750 to 767 of the TA that the individual's income earned in Québec is of the individual's income earned in Québec and elsewhere, as determined by the regulations.
2. Sections 22R1 to 22R20 of the *Regulation respecting the Taxation Act* (RTA) establish the manner of computing the income earned in Québec and the income earned in Québec and elsewhere by an individual who is resident in Québec on the last day of a taxation year and who carries on business in Canada, outside Québec.
3. Section 22R1 of the RTA provides that the income earned in Québec by an individual referred to in point 2 of this bulletin is the individual's income from all sources, as determined under section 28 of the TA (taking the losses from all sources into account), minus that portion of the individual's income derived from carrying on a business that is attributable to an establishment situated in Canada, outside Québec.

BUSINESS LOSS ATTRIBUTABLE TO AN ESTABLISHMENT IN CANADA, OUTSIDE QUÉBEC

4. The word "income", as it is used in the expression "income from carrying on a business" in sections 22R1 to 22R20 of the RTA, has a meaning similar to that of the word "income" in the

expression “income for the year from each source”, which is used in paragraph a of section 28 of the TA. The income that must be taken into consideration under paragraph a of section 28 of the TA, namely, the aggregate of the taxpayer’s income for the year, other than the taxable capital gains from dispositions of property, from each source inside and outside Canada must be determined without taking into account the losses incurred in the year by the taxpayer, which must instead be subtracted under subparagraph ii of paragraph c of section 28 of the TA. Consequently, the expression “income from carrying on a business”, in sections 22R1 to 22R20 of the RTA, must refer, in respect of each business, to the income and not to the loss from carrying on this business.

5. In addition, where an individual carries on more than one business in a taxation year, section 22R19 of the RTA provides that the portion of the business income that is attributable for the year to the individual’s establishments in Canada, outside Québec, is the aggregate of the amounts so determined in respect of each business.

EXAMPLE

6. An individual who resided in Québec for an entire taxation year carried on, in the year, business A in a single establishment located in Québec, business B in a single establishment located in Ontario, business C in a single establishment located in Alberta and business D in a single establishment located in France. The individual’s income for the year from businesses A, B and D was \$15,000, \$28,000 and \$20,000, respectively. The individual incurred a loss of \$18,000 for the year from business C. His net employment income for the year was \$45,000 and his interest income was \$3,500. His income earned in Québec for the year for the purposes of the second paragraph of section 22 of the TA is as follows:

• Computation of income (s. 28 of the TA):

| | |
|-----------------------------|-----------|
| Net employment income | \$45,000 |
| Business A income (Québec) | \$15,000 |
| Business B income (Ontario) | \$28,000 |
| Business D income (France) | \$20,000 |
| Interest income | \$3,500 |
| | \$111,500 |
| minus: | |
| Business C loss (Alberta) | \$18,000 |
| Income | \$93,500 |

• Computation of income earned in Québec (RTA: s. 22R1)

| | |
|---|----------|
| Income (s. 28 of the TA) | \$93,500 |
| minus: | |
| Business B income (Ontario) (portion of the business income that is attributable to an establishment in Canada, outside Québec (s. 22R3 of the RTA) | \$28,000 |
| Income earned in Québec | \$65,500 |