

## Income Tax

IMP. 8-1/R2

Individual Who Sojourns in Québec in a Year

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Reference(s):

*Taxation Act* (CQLR, c. I-3), section 8, paragraph a

*This version of interpretation bulletin IMP. 8-1 replaces that of April 30, 1992. The bulletin was revised to ensure that it is relevant and up to date. The interpretation remains the same.*

### APPLICATION OF THE ACT

1. An individual is deemed to have been resident in Québec during the whole of a taxation year if, more specifically, in that year, he sojourned in Québec for a period or periods comprising 183 days or more and was ordinarily resident outside Canada.
2. Since the notion of “sojourned in Québec” is not defined in the *Taxation Act* (TA), the criteria established by jurisprudence must be retained. Hence the notion of “sojourned” implies a temporary presence at some place. A stay may be more or less lengthy but it implies, by definition, the fact of remaining at some place temporarily, a visit for example.
3. The time that an individual spends in Québec is not the only factor in determining that he “sojourned in Québec”. The 183 day time period does not determine if the individual sojourned in Québec or not; the length of time determines rather if an individual who sojourned in Québec for a period or periods of 183 days or more, is subject to Québec taxation or not.
4. Although the TA does not state how to calculate the period or periods of 183 days, the presence of an individual in Québec for only an hour in a day does not equal a stay of an entire day.
5. For the presumption to apply, an individual must not only have sojourned in Québec for a period or periods of 183 days or more, he must be ordinarily resident outside Canada during the period or periods in which he sojourned in Québec.
6. The notion of “ordinarily resident outside Canada” is not defined in the TA. For example, an individual ordinarily resides in the place where he lives in the ordinary course of his daily activities.
7. In accordance with the general rule stated in the first paragraph of section 22 of the TA, every person who is, more specifically, an individual resident in Québec on the last day of a taxation year shall pay a tax on his taxable income for such taxation year.

8. Subsection 1 of section 5 of the *Income Earned in Quebec Income Tax Remission Order, 1988* (SI/89-157) grants a federal tax remission, more specifically, to any individual who sojourned in Québec for a period of, or periods the aggregate of which is, 183 days or more in the year and was ordinarily resident outside Canada, as if that individual had resided in Québec on the last day of the taxation year.
9. Individuals entitled to the remission must contact the Canada Revenue Agency for a refund.