

DIVISION II.6.14.1
(Repealed).

§1. — (Repealed).

1029.8.36.166.1. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.2. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.3. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.4. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.5. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.6. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.7. (Repealed).

History: 2003, c. 9, s. 340; 2005, c. 23, s. 223; 2012, c. 8, s. 228.

1029.8.36.166.8. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

§2. — (Repealed).

1029.8.36.166.9. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.10. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.11. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.12. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.13. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.14. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.15. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.16. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.17. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.18. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.19. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.20. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.21. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

§3. — (Repealed).

1029.8.36.166.22. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.23. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.24. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.25. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.26. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.27. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.28. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.29. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.30. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.31. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.32. (Repealed).

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.33. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.34. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.35. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.36. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.37. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.38. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

1029.8.36.166.39. *(Repealed).*

History: 2003, c. 9, s. 340; 2012, c. 8, s. 228.

DIVISION II.6.14.2**CREDIT FOR INVESTMENTS RELATING TO
MANUFACTURING AND PROCESSING
EQUIPMENT**§1. — *Interpretation and general***Definitions:****1029.8.36.166.40.** In this division,**“aluminum producing corporation”;**

“aluminum producing corporation” for a taxation year means a corporation that, at any time in the year after 13 March 2008, carries on an aluminum producing business or is the owner or lessee of property used in the carrying on of such a business by another corporation, a partnership or a trust with which the corporation is associated;

“associated group”;

“associated group” in a taxation year has the meaning assigned by section 1029.8.36.166.41;

“eligible expenses”;

“eligible expenses” of a corporation for a particular taxation year or of a partnership for a particular fiscal period, in respect of a qualified property, means

(a) for a corporation, the amount by which the excluded expense amount relating to the qualified property in respect of the corporation for the particular year is exceeded by the aggregate of the following expenses, except expenses incurred with a person with whom the corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm’s length:

i. the expenses incurred by the corporation in the particular taxation year to acquire the qualified property that are included, at the end of that year, in the capital cost of the property and that are paid in the particular year,

ii. the amount by which the expenses incurred by the corporation in the particular taxation year, or in a preceding taxation year for which the corporation was a qualified corporation, to acquire the qualified property that are included, at the end of the particular year or of the preceding year, as the case may be, in the capital cost of the property and that are paid after the end of the particular year or of the preceding year, as the case may be, but not later than 18 months after the end of that year, exceeds the portion of those expenses that was taken into account for the purpose of determining the amount of the corporation’s eligible expenses in respect of which the corporation would be deemed to have paid an amount to the Minister under section 1029.8.36.166.43 for a taxation year preceding the particular year if that section were read without reference to its third paragraph, and

iii. the expenses incurred by the corporation to acquire the qualified property that are included in the capital cost of the property and that are paid in the particular taxation year, if the expenses are paid more than 18 months after the end of the corporation’s taxation year in which they were incurred and for which the corporation was a qualified corporation; and

(b) for a partnership, the amount by which the excluded expense amount relating to the qualified property in respect of the partnership for the particular fiscal period is exceeded by the aggregate of the following expenses, except expenses incurred with a corporation that is a member of the partnership or with a person with whom such a corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm’s length:

i. the expenses incurred by the partnership in the particular fiscal period to acquire the qualified property that are included, at the end of that fiscal period, in the capital cost of the property and that are paid in that fiscal period,

ii. the amount by which the expenses incurred by the partnership in the particular fiscal period, or in a preceding fiscal period for which the partnership was a qualified partnership, to acquire the qualified property that are included, at the end of the particular fiscal period or of the preceding fiscal period, as the case may be, in the capital cost of the property and that are paid after the end of the particular fiscal period or of the preceding fiscal period, as the case may be, but not later than 18 months after the end of that fiscal period, exceeds the portion of those expenses that was taken into account for the purpose of determining the amount of the partnership’s eligible expenses in respect of which a corporation that is a member of the partnership would be deemed to have paid an amount to the Minister

under section 1029.8.36.166.44 for a taxation year preceding that in which the particular fiscal period ends, if that section were read without reference to its third and sixth paragraphs and if, where the corporation was not a qualified corporation for the preceding taxation year, the corporation had been a qualified corporation for the preceding taxation year, and

iii. the expenses incurred by the partnership to acquire the qualified property that are included in the capital cost of the property and that are paid in the particular fiscal period, if the expenses are paid more than 18 months after the end of the partnership's fiscal period in which they were incurred and for which the partnership was a qualified partnership;

“excluded corporation”;

“excluded corporation” for a taxation year means

(a) a corporation that is exempt from tax for the year under Book VIII;

(b) a corporation that would be exempt from tax for the year under section 985, but for section 192;

(c) an aluminum producing corporation for the year;

(d) an oil refining corporation for the year; or

(e) a corporation that was carrying on a recognized business, for the purposes of Division II.6.6.6.1, before 1 April 2008 and, if the taxation year is the one in which the calendar year 2008 or 2009 ends, that has not made an election under section 1029.8.36.72.82.3.1 for the year or a preceding taxation year or, if the taxation year is the one in which the calendar year 2010 ends, that has made an election under section 1029.8.36.72.82.3.1.1 for the year, or that is associated with such a corporation in the year;

“excluded expense amount”;

“excluded expense amount” relating to qualified property means

(a) in respect of a corporation, for a taxation year, or a partnership, for a fiscal period, an amount equal to zero, where the qualified property is acquired before 3 December 2014 or after 2 December 2014 pursuant to an obligation in writing entered into on or before 2 December 2014, or where the construction of the qualified property, by or on behalf of the purchaser, has begun on that date;

(b) in respect of a corporation, for a taxation year, the lesser of the following amounts, where the qualified property is not referred to in paragraph a:

i. an amount that would be equal to the corporation's eligible expenses in respect of that property for the taxation year, if the definition of “eligible expenses” were read without reference to “the amount by which the excluded expense amount relating to the qualified property in respect of the corporation for the particular year is exceeded by” in the portion of its paragraph a before subparagraph i, and

ii. an amount equal to the amount by which the exclusion threshold in respect of the qualified property exceeds the aggregate of all amounts each of which is the excluded expense amount relating to the qualified property in respect of the corporation for each preceding taxation year; and

(c) in respect of a partnership, for a fiscal period, the lesser of the following amounts, where the qualified property is not referred to in paragraph a:

i. an amount that would be equal to the partnership's eligible expenses in respect of that property for the fiscal period, if the definition of “eligible expenses” were read without reference to “the amount by which the excluded expense amount relating to the qualified property in respect of the partnership for the particular fiscal period is exceeded by” in the portion of its paragraph b before subparagraph i, and

ii. an amount equal to the amount by which the exclusion threshold in respect of the qualified property exceeds the aggregate of all amounts each of which is the excluded expense amount relating to the qualified property in respect of the partnership for each preceding fiscal period;

“excluded partnership”;

“excluded partnership” for a fiscal period means a partnership that, at any time in the fiscal period after 13 March 2008, carries on an aluminum producing business or an oil refining business;

“exclusion threshold”;

“exclusion threshold” in respect of qualified property means an amount equal to \$12,500;

“expenses eligible for an additional increase”;

“expenses eligible for an additional increase” of a corporation for a taxation year or of a partnership for a fiscal period, in respect of a qualified property, means the portion of the eligible expenses of the corporation for the year or of the partnership for the fiscal period, in respect of the property, that are incurred

(a) by the corporation in a taxation year for which it is a qualified manufacturing corporation; or

(b) by the partnership in a fiscal period for which it is a qualified manufacturing partnership;

expenses eligible for a temporary additional increase;

“expenses eligible for a temporary additional increase” of a corporation for a taxation year or of a partnership for a fiscal period, in respect of a qualified property described in the fifth paragraph, means the portion of the eligible expenses of the corporation for the year or of the partnership for the fiscal period, in respect of the property, that are incurred after 15 August 2018 and before 1 January 2020

(a) by the corporation in a taxation year for which it is a qualified metal manufacturing sector corporation; or

(b) by the partnership in a fiscal period for which it is a qualified metal manufacturing sector partnership;

“hydrometallurgy”;

“hydrometallurgy” means any processing of an ore or concentrate that produces a metal, metallic salt or metallic compound by carrying out a chemical reaction in an aqueous or organic solution;

“large investment project”;

“large investment project” has the meaning assigned by the first paragraph of section 737.18.17.1;

“limit relating to an unused portion”;

“limit relating to an unused portion” in respect of a corporation for a taxation year means the aggregate of its total taxes for the year and of the amount determined for the year in its respect under the second paragraph of section 1029.8.36.166.42;

“major investment project”;

“major investment project” has the meaning assigned by the first paragraph of section 737.18.14;

manufacturing or processing salary or wages;

“manufacturing or processing salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period means the portion of the salary or wages in relation to the qualified corporation for the taxation year or the qualified partnership for the fiscal period that corresponds to the aggregate of all amounts each of which is equal to the result obtained by multiplying the gross revenue of an employee of the corporation or partnership, as the case may be, by the proportion that the employee’s working time spent on manufacturing or processing activities, other than activities listed in section 130R12 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), in the taxation year or fiscal period is of all the employee’s working time in that year or period;

“maximum tax credit amount”;

“maximum tax credit amount” of a corporation for a taxation year means the aggregate of the amount by which its total taxes for the year exceed the amount it is deemed to have paid to the Minister for the year under section 1029.8.36.166.46, and of the amount determined for the year in its respect under the first paragraph of section 1029.8.36.166.42;

metal manufacturing salary or wages;

“metal manufacturing salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period means the portion of the salary or wages in relation to the qualified corporation for the taxation year or the qualified partnership for the fiscal period that corresponds to the aggregate of all amounts each of which is equal to the result obtained by multiplying the gross revenue of an employee of the corporation or partnership, as the case may be, by the proportion that the employee’s working time spent on metal manufacturing activities in the taxation year or fiscal period is of all the employee’s working time in that year or period;

metal manufacturing activities;

“metal manufacturing activities” of a corporation or a partnership means the following activities:

(a) the primary metal manufacturing activities that are included in the group described under code 331 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada; and

(b) the fabricated metal product manufacturing activities that are included in the group described under code 332 of the publication mentioned in paragraph a;

“oil refining corporation”;

“oil refining corporation” for a taxation year means a corporation that, at any time in the year after 13 March 2008, carries on an oil refining business or is the owner or lessee of property used in the carrying on of such a business by another corporation, a partnership or a trust with which the corporation is associated;

proportion of the activities relating to the metal manufacturing sector;

“proportion of the activities relating to the metal manufacturing sector” of a qualified corporation for a taxation year or of a qualified partnership for a fiscal period means the proportion, expressed as a percentage, that the metal manufacturing salary or wages in relation to the corporation for the taxation year or to the partnership for the fiscal period is of the salary or wages in relation to the corporation for that year or to the partnership for that period;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation, other than an excluded corporation for the year, that, in the year, carries on a business in Québec and has an establishment in Québec;

“qualified manufacturing corporation”;

“qualified manufacturing corporation” for a taxation year means a qualified corporation, for the year, in respect of which the proportion of the manufacturing or processing activities that the manufacturing or processing salary or wages in relation to the corporation for the year is of the salary or wages in relation to the corporation for the year, exceeds 50%;

“qualified manufacturing partnership”;

“qualified manufacturing partnership” for a fiscal period means a qualified partnership, for the fiscal period, in respect of which the proportion of the manufacturing or processing activities that the manufacturing or processing salary or wages in relation to the partnership for the fiscal period is of the salary or wages in relation to the partnership for the fiscal period, exceeds 50%;

qualified metal manufacturing sector corporation;

“qualified metal manufacturing sector corporation” for a taxation year means a qualified corporation for the year in

respect of which the proportion of the activities relating to the metal manufacturing sector for the year exceeds 50%;

qualified metal manufacturing sector partnership;

“qualified metal manufacturing sector partnership” for a fiscal period means a qualified partnership for the fiscal period in respect of which the proportion of the activities relating to the metal manufacturing sector for that period exceeds 50%;

“qualified partnership”;

“qualified partnership” for a fiscal period means a partnership, other than an excluded partnership for the fiscal period, that, in the fiscal period, carries on a business in Québec and has an establishment in Québec;

“qualified property”;

“qualified property” of a corporation or a partnership means a property that

(a) is acquired by the corporation or partnership in a period that is,

i. if the property is referred to in paragraph *a.1* because of the application of subparagraph *i* of that paragraph and is not a property acquired pursuant to an obligation in writing entered into before 14 March 2008 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 13 March 2008, any of the following periods:

(1) where the property is acquired to be used mainly in a resource region, the period that begins on 14 March 2008 and ends on 31 December 2022, or

(2) in any other case, the period that begins on 14 March 2008 and ends on 31 December 2016 or, unless it is a property acquired pursuant to an obligation in writing entered into before 16 August 2018 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 15 August 2018, the period that begins on 16 August 2018 and ends on 31 December 2019,

ii. if the property is referred to in paragraph *a.1* because of the application of subparagraph *i.1* of that paragraph, any of the following periods:

(1) where the property is acquired to be used mainly in a resource region, the period that begins on 28 January 2009 and ends on 31 December 2022, or

(2) in any other case, the period that begins on 28 January 2009 and ends on 31 December 2016 or, unless it is a property acquired pursuant to an obligation in writing entered into before 16 August 2018 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 15 August 2018, the period that begins on 16 August 2018 and ends on 31 December 2019, or

iii. if the property is referred to in paragraph *a.1* because of the application of subparagraph *ii* of that paragraph and is not

a property acquired pursuant to an obligation in writing entered into before 21 March 2012 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 20 March 2012, any of the following periods:

(1) where the property is acquired to be used mainly in a resource region, the period that begins on 21 March 2012 and ends on 31 December 2022, or

(2) in any other case, the period that begins on 21 March 2012 and ends on 31 December 2016 or, unless it is a property acquired pursuant to an obligation in writing entered into before 16 August 2018 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 15 August 2018, the period that begins on 16 August 2018 and ends on 31 December 2019;

(a.1) but for section 93.6, would be included

i. in any of Classes 29, 43 and 53 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1),

i.1. in Class 50 or 52 of Schedule B to the Regulation respecting the Taxation Act, but could be included, but for section 93.6, in Class 29 of that Schedule under subparagraph *vi* of subparagraph *b* of the first paragraph of that class if that subparagraph *vi* were read as if “28 January 2009” were replaced by “either 1 January 2020 or, where the property is acquired to be used mainly in a resource region, within the meaning of the first paragraph of section 1029.8.36.166.40 of the Act, 1 January 2023” and as if no reference were made to subparagraph *c* of that paragraph, or

ii. in Class 43 of Schedule B to the Regulation respecting the Taxation Act if subparagraphs *i* and *ii* of paragraph *b* of that class were read as follows:

“*i.* would be included in Class 10 under subparagraph *e* of the second paragraph of that class, if this schedule were read without reference to this paragraph and subparagraphs *a*, *b* and *e* of the first paragraph of Class 41, and

“*ii.* at the time of its acquisition, may reasonably be expected to be used entirely in Canada and primarily for the purposes of smelting, refining or hydrometallurgy activities in respect of ore (other than ore from a gold or silver mine) extracted from a mineral resource located in Canada.”;

(*b*) begins to be used within a reasonable time after being acquired;

(*c*) is used solely in Québec and mainly in the course of carrying on a business, other than a recognized business in connection with which a large investment project is carried out or is in the process of being carried out;

(c.1) is not used in the course of operating an ethanol plant;

(c.2) is not used in the course of operating a biodiesel fuel plant;

(c.3) is not used in the course of operating a pyrolysis oil plant; and

(d) was not, before its acquisition, used for any purpose or acquired to be used or leased for any purpose whatever;

“recognized business”;

“recognized business” has the meaning assigned by the first paragraph of section 737.18.17.1;

“refining”;

“refining” means any processing of a product from a smelting or concentration operation to remove impurities, which produces very high grade metal;

“resource region”;

“resource region” means

(a) one of the following administrative regions described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1):

- i. (subparagraph repealed),
- ii. administrative region 02 Saguenay–Lac-Saint-Jean,
- iii. administrative region 04 Mauricie,
- iv. administrative region 08 Abitibi-Témiscamingue,
- v. administrative region 09 Côte-Nord,
- vi. administrative region 10 Nord-du-Québec, or
- vii. administrative region 11 Gaspésie–Îles-de-la-Madeleine; or

(b) one of the following regional county municipalities:

- i. Municipalité régionale de comté d’Antoine-Labelle,
 - i.1. Municipalité régionale de comté de Kamouraska,
 - i.2. Municipalité régionale de comté de La Matapédia,
 - i.3. Municipalité régionale de comté de La Mitis,
- ii. Municipalité régionale de comté de La Vallée-de-la-Gatineau, or
 - ii.1. Municipalité régionale de comté des Basques,
 - ii.2. Municipalité régionale de comté de La Matanie,
 - iii. Municipalité régionale de comté de Pontiac,
 - iv. Municipalité régionale de comté de Rimouski-Neigette,
 - v. Municipalité régionale de comté de Rivière-du-Loup, or
 - vi. Municipalité régionale de comté de Témiscouata;

“salary or wages”;

“salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period means the aggregate of all amounts each of which is an amount (in the definitions of “manufacturing or processing salary or wages” and “metal manufacturing salary or wages” referred to as the “gross revenue” of an employee) incurred by the corporation in the taxation year or the partnership in the fiscal period, in respect of an employee of the corporation or partnership, as the case may be, and included in computing the employee’s income under Chapters I and II of Title II of Book III, except a remuneration based on profits or a bonus, where the remuneration or bonus relates, as the case may be, to an employee who is a specified shareholder of the corporation in the taxation year or a member of the partnership that is entitled, directly or indirectly, to a share of the income or of the loss of the partnership for the fiscal period of at least 10%;

“smelting”;

“smelting” means any processing of an ore or concentrate in the course of which the charge is melted and chemically converted to produce a slag and a matte or metal containing impurities;

“specified member”;

“specified member” of a corporation that is a cooperative, in a taxation year, means a member having, directly or indirectly, at any time in the year, at least 10% of the votes at a meeting of the members of the cooperative;

“total taxes”;

“total taxes” of a corporation for a taxation year means the aggregate of its tax payable under this Part for the year and of its tax payable under Parts IV, IV.1, VI and VI.1 for the year;

“unused portion of the tax credit”.

“unused portion of the tax credit” of a corporation for a taxation year means the amount by which the total amount that the corporation would be deemed to have paid to the Minister for that year under the first paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44 if no reference were made to the third paragraph of those sections, exceeds the corporation’s maximum tax credit amount for the year.

Property deemed used in carrying on a recognized business.

For the purposes of paragraph *c* of the definition of “qualified property” in the first paragraph, a property that is acquired in connection with the carrying out of a large investment project is deemed to be used in the course of carrying on a recognized business referred to in that paragraph that the corporation or partnership begins to carry on at a particular time and that relates to the large investment project, if the expenditures of a capital nature for its acquisition are incurred by the corporation or partnership in the period that begins at the beginning of the carrying out of the project and ends immediately before the particular time.

Eligible expenses.

For the purposes of the definition of “eligible expenses” in the first paragraph, the following rules apply:

(a) the expenses that are included, at the end of a taxation year or fiscal period, in the capital cost of a property do not include the expenses so included under section 180 or 182; and

(b) the expenses incurred to acquire a property must be incurred,

i. where the property is acquired to be used mainly in a resource region, before 1 January 2023, or

ii. in any other case, before 1 January 2017, or after 15 August 2018 and before 1 January 2020.

Expenses eligible for an additional increase — exclusions.

For the purposes of the definition of “expenses eligible for an additional increase” in the first paragraph, are excluded eligible expenses incurred in respect of a property before 8 October 2013 or after 7 October 2013 where the property is acquired pursuant to a written obligation entered into before 8 October 2013 or where the construction of the property, by or on behalf of the purchaser, had begun by 7 October 2013, and eligible expenses incurred in respect of a property after 4 June 2014, except eligible expenses incurred after that date and before 1 July 2015 if the property is acquired on or before 4 June 2014 or, otherwise, the property is acquired pursuant to a written obligation entered into on or before that date or the construction of the property, by or on behalf of the purchaser, had begun by that date.

Qualified property.

The qualified property referred to in the definition of “expenses eligible for a temporary additional increase” in the first paragraph is a qualified property that is acquired after 15 August 2018 and before 1 January 2020 otherwise than pursuant to an obligation in writing entered into before 16 August 2018 and that is not a property the construction of which, by or on behalf of the purchaser, had begun by 15 August 2018.

Working time.

For the purposes of the definitions of “manufacturing or processing salary or wages” and “metal manufacturing salary or wages” in the first paragraph, an employee who spends 90% or more of working time on manufacturing or processing activities or on metal manufacturing activities, as the case may be, is deemed to spend all working time on those activities.

Working time.

For the purposes of the definition of “manufacturing or processing salary or wages” in the first paragraph, an

employee who spends 90% or more of working time on manufacturing or processing activities is deemed to spend all working time on those activities.

History: 2009, c. 15, s. 303; 2010, c. 5, s. 159; 2010, c. 25, s. 171; 2011, c. 6, s. 190; 2011, c. 34, s. 92; 2012, c. 8, s. 229; 2013, c. 10, s. 122; 2015, c. 21, s. 459; 2015, c. 24, s. 142; 2017, c. 1, s. 291; 2017, c. 29, s. 183; 2019, c. 14, s. 360; 2020, c. 16, s. 148.

Balance of a corporation’s cumulative eligible expense limit.

1029.8.36.166.40.1. For the purposes of this division, the balance of a qualified corporation’s cumulative eligible expense limit for a particular taxation year is equal,

(a) if the qualified corporation is not a member of an associated group in the particular year, to the amount by which \$75,000,000 exceeds the aggregate of all amounts each of which would be the amount of the portion of the qualified corporation’s eligible expenses, in respect of a qualified property, for any preceding taxation year that ends in a 24-month period preceding the beginning of the particular year, or its share of the portion of a partnership’s eligible expenses, in respect of a qualified property, for a fiscal period of the partnership that ends in such a preceding taxation year, that would be referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.166.43 or 1029.8.36.166.44 and in respect of which an amount would be deemed to have been paid to the Minister by the corporation for that preceding year under section 1029.8.36.166.43 or 1029.8.36.166.44, as the case may be, but for the third paragraph of that section, if the excluded expense amount relating to the qualified property were equal to zero; or

(b) if the qualified corporation is a member of an associated group in the particular year, to the amount attributed for the particular year to the qualified corporation pursuant to the agreement described in the second paragraph and filed with the Minister in the prescribed form or, if no amount is attributed to the qualified corporation pursuant to that agreement or in the absence of such an agreement, to zero or to the amount attributed to it by the Minister, if applicable, for the particular year in accordance with this division.

Agreement.

The agreement to which subparagraph *b* of the first paragraph refers, in respect of a particular taxation year of the qualified corporation, is the agreement under which all the corporations that are members of the associated group in the particular taxation year attribute, for the purposes of this section, to one or more of the corporations that are members of the associated group, for the particular taxation year, one or more amounts the total of which is not greater than the amount by which \$75,000,000 exceeds the aggregate of all amounts each of which would be

(a) the amount of the portion of the eligible expenses of a corporation that is a member of the associated group in the

particular year, in respect of a qualified property, for a taxation year that ends in a 24-month period preceding the beginning of the particular year, that would be referred to in subparagraph i of subparagraph a of the first paragraph of section 1029.8.36.166.43 and in respect of which an amount would be deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.43 but for its third paragraph, if the excluded expense amount relating to the qualified property were equal to zero; or

(b) the amount of the share of a corporation that is a member of the associated group in the year of the portion of the eligible expenses of a partnership, in respect of a qualified property, for a fiscal period of the partnership that ended in a taxation year of the corporation that ends in a 24-month period preceding the beginning of the particular year, that would be referred to in subparagraph i of subparagraph a of the first paragraph of section 1029.8.36.166.44 and in respect of which an amount would be deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.44 but for its third paragraph, if the excluded expense amount relating to the qualified property were equal to zero.

Deemed attribution.

If the aggregate of the amounts attributed, in respect of a taxation year, in an agreement described in the second paragraph and entered into with the corporations that are members of an associated group in the year is greater than the excess amount determined under that paragraph, the amount determined under subparagraph b of the first paragraph in respect of each of those corporations for that taxation year is deemed, for the purposes of this section, to be equal to the proportion of that excess amount that that amount is of the aggregate of the amounts attributed for that year in the agreement.

Associated group.

For the purposes of this section and section 1029.8.36.166.40.2, an associated group in a taxation year means all the corporations that are associated with each other in the year.

Member's share.

For the purposes of subparagraph a of the first paragraph and subparagraph b of the second paragraph, a corporation's share of the portion of the eligible expenses, in respect of a qualified property, of a partnership for a fiscal period is equal to the agreed proportion of that portion of the expenses in respect of the corporation for the fiscal period.

History: 2010, c. 25, s. 172; 2015, c. 21, s. 460; 2015, c. 24, s. 143.

Attribution by the Minister.

1029.8.36.166.40.2. If a corporation that is a member of an associated group for a taxation year fails to file with the Minister an agreement for the purposes of this division

within 30 days after notice in writing by the Minister has been sent to any of the corporations that are members of that group that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, attribute, for the taxation year, an amount to one or more of those corporations, which amount or the aggregate of which amounts must be equal to the excess amount determined for the year under the second paragraph of section 1029.8.36.166.40.1 and, in any such case, the balance of the cumulative eligible expense limit of each of those corporations for the year is equal to the amount so attributed to it.

History: 2010, c. 25, s. 172.

Balance of a qualified partnership's cumulative eligible expense limit.

1029.8.36.166.40.3. For the purposes of this division, the balance of a qualified partnership's cumulative eligible expense limit for a particular fiscal period is equal to the amount by which \$75,000,000 exceeds the aggregate of all amounts each of which would be the amount of its eligible expenses, in respect of qualified property, for a fiscal period that ends in the 24-month period preceding the beginning of the particular fiscal period and in respect of which an amount would be deemed to have been paid to the Minister under section 1029.8.36.166.44 but for its third paragraph, if the excluded expense amount relating to the qualified property were equal to zero.

History: 2010, c. 25, s. 172; 2015, c. 24, s. 144.

Balance of a joint venture's cumulative eligible expense limit.

1029.8.36.166.40.4. For the purposes of this division, the balance of a joint venture's cumulative eligible expense limit for a particular fiscal period of the joint venture is equal to the amount by which \$75,000,000 exceeds the aggregate of all amounts each of which would be the amount of the eligible expenses incurred by a corporation or a partnership, in respect of qualified property, as a party to the joint venture in a fiscal period of the joint venture that ends in the 24-month period preceding the beginning of the particular fiscal period and in respect of which an amount would be deemed to have been paid to the Minister under section 1029.8.36.166.43 or 1029.8.36.166.44 but for the third paragraph of that section, if the excluded expense amount relating to the qualified property were equal to zero.

Joint venture.

For the purposes of this section, a joint venture is deemed to be a partnership whose fiscal period ends on 31 December of a calendar year.

Share of the balance of a joint venture's cumulative eligible expense limit.

For the purposes of this division, the share of a corporation for a taxation year, or of a partnership for a fiscal period, of

the balance of a joint venture's cumulative eligible expense limit is equal,

(a) in the case of a corporation,

i. if its taxation year does not end on 31 December of a calendar year, to the aggregate of all amounts each of which is the proportion of its share, determined in accordance with the fourth paragraph, of the balance of the joint venture's cumulative eligible expense limit for a fiscal period of the joint venture, a part of which is included in the taxation year, that the eligible expenses incurred by the corporation as a party to the joint venture in that part of the fiscal period of the joint venture that is included in the taxation year of the corporation is of the aggregate of the eligible expenses incurred by the corporation as a party to the joint venture in that fiscal period of the joint venture, or

ii. if its taxation year ends on 31 December of a calendar year, to its share, determined in accordance with the fourth paragraph, of the balance of the joint venture's cumulative eligible expense limit for the fiscal period of the joint venture whose end coincides with the end of the taxation year of the corporation; and

(b) in the case of a partnership,

i. if its fiscal period does not end on 31 December of a calendar year, to the aggregate of all amounts each of which is the proportion of its share, determined in accordance with the fourth paragraph, of the balance of the joint venture's cumulative eligible expense limit for the fiscal period of the joint venture, a part of which is included in the fiscal period of the partnership, that the eligible expenses incurred by the partnership as a party to the joint venture in that part of the fiscal period of the joint venture that is included in the fiscal period of the partnership is of the aggregate of the eligible expenses incurred by the partnership as a party to the joint venture in that fiscal period of the joint venture, or

ii. if its taxation year ends on 31 December of a calendar year, to its share, determined in accordance with the fourth paragraph, of the balance of the joint venture's cumulative eligible expense limit for the fiscal period of the joint venture whose end coincides with the end of the fiscal period of the partnership.

Share of the balance of a joint venture's cumulative eligible expense limit.

For the purposes of the third paragraph, a corporation's or a partnership's share of the balance of a joint venture's cumulative eligible expense limit for a fiscal period of the joint venture is equal to the proportion of that amount that the eligible expenses incurred by the corporation or the partnership in that fiscal period as a party to the joint venture is of the aggregate of the eligible expenses incurred in the fiscal period of the joint venture.

History: 2010, c. 25, s. 172; 2015, c. 24, s. 145.

Associated group.

1029.8.36.166.41. An associated group, in a taxation year, means all the corporations that are associated with each other at any given time in the year.

Presumption.

For the purposes of the first paragraph, a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at that time by the individual.

History: 2009, c. 15, s. 303; 2015, c. 36, s. 122.

Maximum tax credit amount.

1029.8.36.166.42. The amount to which the definition of "maximum tax credit amount" in the first paragraph of section 1029.8.36.166.40 refers, in relation to a corporation for a taxation year, is equal to the product obtained by multiplying, by the proportion determined by the formula in the third paragraph, the amount by which the total amount that the corporation would be deemed to have paid to the Minister for the taxation year under sections 1029.8.36.166.43 and 1029.8.36.166.44 if no reference were made to the third paragraph of those sections and if the corporation considered, in its eligible expenses or its share of the eligible expenses of a partnership, only the portion of such expenses that are referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.166.43 or 1029.8.36.166.44, exceeds the amount by which the amount by which the corporation's total taxes for the year exceeds the amount the corporation is deemed to have paid to the Minister for the year under section 1029.8.36.166.46, exceeds the aggregate of the amounts determined in its respect for the year under subparagraph *b* of the first paragraph of section 1029.8.36.166.43 or 1029.8.36.166.44.

Limit relating to an unused portion.

The amount to which the definition of "limit relating to an unused portion" in the first paragraph of section 1029.8.36.166.40 refers, in relation to a corporation for a taxation year, is equal to the product obtained by multiplying, by the proportion determined by the formula in the third paragraph, the amount by which the corporation's total taxes for the year are exceeded by the aggregate of all amounts each of which is an excess amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.166.46 that would be determined in respect of an original year, within the meaning of that subparagraph, in relation to the taxation year, if the definition of "unused portion of the tax credit" in the first paragraph of section 1029.8.36.166.40 were read as follows:

"'unused portion of the tax credit" of a corporation for a taxation year, if the paid-up capital that is attributed to the corporation for the year, determined in accordance with section 737.18.24, is less than \$500,000,000, means the

amount by which the maximum tax credit amount of the corporation for the year is exceeded by the total amount that the corporation would be deemed to have paid to the Minister for that year under sections 1029.8.36.166.43 and 1029.8.36.166.44 if no reference were made to the third paragraph of those sections and if the corporation considered, in its eligible expenses or its share of the eligible expenses of a partnership, only the portion of such expenses that does not exceed, as the case may be,

(a) the balance of the corporation's cumulative eligible expense limit for the year;

(b) the corporation's share of the balance of a qualified partnership's cumulative eligible expense limit for a particular fiscal period of the partnership that ends in the taxation year of the corporation;

(c) the portion of the eligible expenses of the corporation incurred in the year as a party to a joint venture that exceeds the corporation's share for the taxation year of the balance of the joint venture's cumulative eligible expense limit; or

(d) the portion of the eligible expenses of the partnership incurred, in a particular fiscal period of the partnership that ends in the taxation year, as a party to a joint venture, that exceeds the partnership's share for the particular fiscal period of the balance of the joint venture's cumulative eligible expense limit."

Formula.

The formula to which the first and second paragraphs refer is the following:

$$1 - [(A - \$250,000,000)/\$250,000,000].$$

Interpretation.

In the formula in the third paragraph, A is the greater of

(a) \$250,000,000; and

(b) the lesser of \$500,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24.

History: 2009, c. 15, s. 303; 2010, c. 25, s. 173; 2015, c. 21, s. 461.

Corporations deemed associated.

1029.8.36.166.42.1. If it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to cause a qualified corporation to be deemed to have paid an amount to the Minister under this division for that year or to increase an amount that a qualified corporation is deemed to have paid to the Minister under this division for that year, those corporations are deemed, for the purposes of this division, to be associated with each other in the year.

History: 2010, c. 25, s. 174.

§2. — Credits

Credit.

1029.8.36.166.43. A qualified corporation for a taxation year that encloses the documents referred to in the fifth paragraph with the fiscal return it is required to file for the year under section 1000 is deemed, subject to the fourth paragraph, to have paid to the Minister on the qualified corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is, in relation to a qualified property,

(a) if the paid-up capital attributed to the qualified corporation for the year, determined in accordance with section 737.18.24, is less than \$500,000,000, the total of

i. the aggregate of all amounts each of which is the product obtained by multiplying a portion of its eligible expenses for the year, in respect of the property, such portion being referred to in section 1029.8.36.166.45, by the rate determined for the year, under that section, in relation to that portion of expenses, to the extent that the aggregate of those portions of expenses (in subparagraphs ii and iii referred to as the "particular eligible expenses") is established subject to the second paragraph and does not include the portion, determined by the corporation, of the eligible expenses incurred by the corporation in the year as a party to a joint venture that exceeds the corporation's share for the year of the balance of the joint venture's cumulative eligible expense limit,

ii. the product obtained by multiplying the portion of the particular eligible expenses for the year, in respect of the property, that are expenses eligible for an additional increase of the corporation for the year, by the rate determined for the year, under section 1029.8.36.166.45.1, in relation to that portion of the particular eligible expenses, and

iii. the product obtained by multiplying the portion of the particular eligible expenses for the year, in respect of the property, that are expenses eligible for a temporary additional increase of the corporation for the year, by the rate determined for the year, under section 1029.8.36.166.45.2, in relation to that portion of the particular eligible expenses; or

(b) the total of

i. the product obtained by multiplying by 5% the amount by which the portion of its eligible expenses for the year, in respect of the property, that are expenses referred to in subparagraph *a* or *b* of the third paragraph of section 1029.8.36.166.45 (such portion being in this subparagraph *b* referred to as the "specified eligible expenses"), exceeds the portion of those specified eligible expenses that is referred to in subparagraph i of subparagraph *a*, and

ii. the product obtained by multiplying by 4% the amount by which the portion of its eligible expenses for the year, in respect of the property, that are not specified eligible expenses (such portion being in this subparagraph ii referred to as the “other eligible expenses”), exceeds the portion of those other eligible expenses that is referred to in subparagraph i of subparagraph *a*.

Limit.

The total of the eligible expenses that are referred to in subparagraph i of subparagraph *a* of the first paragraph in respect of a corporation for a taxation year may not exceed the amount that is the amount by which the balance of its cumulative eligible expense limit for the year exceeds the aggregate of all amounts each of which is its share of eligible expenses that would be referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.166.44 for the year and in respect of which the corporation would be deemed to have paid an amount to the Minister for the year under section 1029.8.36.166.44 if it were read without reference to its third paragraph and if the definition of “eligible expenses” in the first paragraph of section 1029.8.36.166.40 were read without reference to “the amount by which the excluded expense amount relating to the qualified property in respect of the partnership for the particular fiscal period is exceeded by” in the portion of its paragraph *b* before subparagraph i.

Limit.

The total amount that the corporation is deemed to have paid to the Minister for the year under the first paragraph and, if applicable, under the first paragraph of section 1029.8.36.166.44 must not exceed the corporation’s maximum tax credit amount for the year.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is

deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the agreement described in section 1029.8.36.166.40.1, if applicable.

History: 2009, c. 15, s. 303; 2010, c. 25, s. 175; 2012, c. 8, s. 230; 2015, c. 21, s. 462; 2015, c. 24, s. 146; 2020, c. 16, s. 149.

Credit.

1029.8.36.166.44. A qualified corporation for a taxation year that is a member of a qualified partnership at the end of a particular fiscal period of the partnership that ends in the year and that encloses the documents referred to in the seventh paragraph with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph, to have paid to the Minister on the qualified corporation’s balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is, in relation to a qualified property,

(a) if the paid-up capital attributed to the qualified corporation for the year, determined in accordance with section 737.18.24, is less than \$500,000,000, the total of

i. the aggregate of all amounts each of which is the product obtained by multiplying its share of a portion of the partnership’s eligible expenses for the particular fiscal period, in respect of the property, such portion being referred to in section 1029.8.36.166.45, by the rate determined for the year, under that section, in relation to its share of that portion of expenses, to the extent that the aggregate of those portions of expenses (in subparagraphs ii and iii referred to as the “particular eligible expenses”) is established subject to the second paragraph and does not include the portion, determined by the qualified corporation, of the qualified partnership’s eligible expenses for the particular fiscal period that exceeds the balance of the partnership’s cumulative eligible expense limit for the particular fiscal period, or the portion, determined by the qualified corporation, of such expenses incurred by the partnership in the particular fiscal period as a party to a joint venture that exceeds the partnership’s share for the particular fiscal period of the balance of the joint venture’s cumulative eligible expense limit,

ii. the product obtained by multiplying its share of the portion of the particular eligible expenses for the particular fiscal period, in respect of the property, that are expenses

eligible for an additional increase of the partnership for that period, by the rate determined for the year, under section 1029.8.36.166.45.1, in relation to its share of that portion of the particular eligible expenses, and

iii. the product obtained by multiplying its share of the portion of the particular eligible expenses for the particular fiscal period, in respect of the property, that are expenses eligible for a temporary additional increase of the partnership for that period, by the rate determined for the year, under section 1029.8.36.166.45.2, in relation to its share of that portion of the particular eligible expenses; or

(b) the total of

i. the product obtained by multiplying by 5% its share of the amount by which the portion of the partnership's eligible expenses for the particular fiscal period, in respect of the property, that are expenses referred to in subparagraph *a* or *b* of the third paragraph of section 1029.8.36.166.45 (such portion being in this subparagraph *b* referred to as the "specified eligible expenses"), exceeds the portion of those specified eligible expenses that is referred to in subparagraph *i* of subparagraph *a*, and

ii. the product obtained by multiplying by 4% its share of the amount by which the portion of the partnership's eligible expenses for the particular fiscal period, in respect of the property, that are not specified eligible expenses (such portion being in this subparagraph *ii* referred to as the "other eligible expenses"), exceeds the portion of those other eligible expenses that is referred to in subparagraph *i* of subparagraph *a*.

Limit.

The total of all amounts each of which is a corporation's share of eligible expenses that is referred to in subparagraph *i* of subparagraph *a* of the first paragraph for a taxation year may not exceed the amount that is the amount by which the balance of its cumulative eligible expense limit for the year exceeds the total of the eligible expenses that would be referred to in subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.166.43 for the year and in respect of which the corporation would be deemed to have paid an amount to the Minister for the year under section 1029.8.36.166.43 if it were read without reference to its third paragraph and if the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.40 were read without reference to "the amount by which the excluded expense amount relating to the qualified property in respect of the corporation for the particular year is exceeded by" in the portion of its paragraph *a* before subparagraph *i*.

Limit.

The total amount that the corporation is deemed to have paid to the Minister for the year under the first paragraph and, if applicable, under the first paragraph of

section 1029.8.36.166.43 must not exceed the corporation's maximum tax credit amount for the year.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Member's share.

For the purposes of the first paragraph, a qualified corporation's share of a particular amount, in relation to a qualified partnership of which it is a member in a fiscal period is equal to the agreed proportion of that amount in respect of the qualified corporation for the fiscal period.

Eligible expenses of a partnership.

Despite the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.40 and for the purpose of applying this section to a corporation referred to in the first paragraph, the eligible expenses for a particular fiscal period, in respect of a qualified property, of a partnership of which the corporation is a member, or the portion of such eligible expenses referred to in subparagraph *a* of the first paragraph, do not include

(a) the expenses that would otherwise be such eligible expenses because of subparagraph *ii* of paragraph *b* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.40 and that are incurred in a fiscal period of the partnership that precedes the particular fiscal period and ends in a taxation year for which the corporation was not a qualified corporation; or

(b) the expenses that would otherwise be such eligible expenses because of subparagraph *iii* of paragraph *b* of the definition of "eligible expenses" in the first paragraph of

section 1029.8.36.166.40 and that are incurred in a fiscal period of the partnership that ends in a taxation year for which the corporation was not a qualified corporation.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the agreement described in section 1029.8.36.166.40.1, if applicable.

History: 2009, c. 15, s. 303; 2010, c. 25, s. 176; 2012, c. 8, s. 231; 2015, c. 21, s. 463; 2015, c. 24, s. 147; 2020, c. 16, s. 150.

Rate determined in relation to the portion of eligible expenses.

1029.8.36.166.45. The rate to which subparagraph i of subparagraph *a* of the first paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44 refers, in relation to a portion of a corporation's eligible expenses or to a corporation's share of a portion of a partnership's eligible expenses, in respect of a qualified property, for a particular taxation year is

(a) where the qualified property is acquired to be used mainly in an administrative region referred to in any of subparagraphs iv to vii of paragraph *a* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40,

i. if the portion of the expenses represents eligible expenses that are described in subparagraph *a* or *b* of the third paragraph, the rate determined by the formula

$$40\% - [35\% \times (A - \$250,000,000)/\$250,000,000],$$

ii. if subparagraph i does not apply and the portion of the expenses represents eligible expenses incurred before 1 January 2017, the rate determined by the formula

$$32\% - [28\% \times (A - \$250,000,000)/\$250,000,000], \text{ or}$$

iii. in any other case, the rate determined by the formula

$$24\% - [20\% \times (A - \$250,000,000)/\$250,000,000];$$

(b) where the qualified property is acquired to be used mainly in one of the regional county municipalities referred to in subparagraphs i.2, i.3 and ii.2 of paragraph *b* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40,

i. if the portion of the expenses represents eligible expenses that are described in subparagraph *a* of the third paragraph and the corporation is neither deemed to have paid an amount to the Minister under Division II.6.6.6.1 for the particular

taxation year nor associated, in the particular taxation year, with another corporation that is deemed to have paid an amount to the Minister under Division II.6.6.6.1 for a taxation year that ends in the particular taxation year, the rate determined by the formula

$$35\% - [30\% \times (A - \$250,000,000)/\$250,000,000],$$

ii. if subparagraph i does not apply and the portion of the expenses represents eligible expenses that are described in subparagraph *a* or *b* of the third paragraph, the rate determined by the formula

$$30\% - [25\% \times (A - \$250,000,000)/\$250,000,000],$$

iii. if subparagraphs i and ii do not apply and the portion of the expenses represents eligible expenses incurred before 1 January 2017, the rate determined by the formula

$$24\% - [20\% \times (A - \$250,000,000)/\$250,000,000], \text{ or}$$

iv. in any other case, the rate determined by the formula

$$16\% - [12\% \times (A - \$250,000,000)/\$250,000,000];$$

(c) where the qualified property is acquired to be used mainly in an administrative region referred to in subparagraph ii or iii of paragraph *a* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40 or in one of the regional county municipalities referred to in subparagraphs i, i.1, ii, ii.1 and iii to vi of paragraph *b* of that definition,

i. if the portion of the expenses represents eligible expenses that are described in subparagraph *a* of the third paragraph and the corporation is neither deemed to have paid an amount to the Minister under Division II.6.6.6.1 for the particular taxation year nor associated, in the particular taxation year, with another corporation that is deemed to have paid an amount to the Minister under Division II.6.6.6.1 for a taxation year that ends in the particular taxation year, the rate determined by the formula

$$25\% - [20\% \times (A - \$250,000,000)/\$250,000,000],$$

ii. if subparagraph i does not apply and the portion of the expenses represents eligible expenses that are described in subparagraph *a* or *b* of the third paragraph, the rate determined by the formula

$$20\% - [15\% \times (A - \$250,000,000)/\$250,000,000],$$

iii. if subparagraphs i and ii do not apply and the portion of the expenses represents eligible expenses incurred before 1 January 2017, the rate determined by the formula

$$16\% - [12\% \times (A - \$250,000,000)/\$250,000,000], \text{ or}$$

iv. in any other case, the rate determined by the formula

$8\% - [4\% \times (A - \$250,000,000)/\$250,000,000]$; or

(d) in any other case,

i. if the portion of the expenses represents eligible expenses that are described in subparagraph *a* or *b* of the third paragraph, the rate determined by the formula

$10\% - [5\% \times (A - \$250,000,000)/\$250,000,000]$, or

ii. if subparagraph i does not apply and the portion of the expenses represents eligible expenses incurred before 1 January 2017, the rate determined by the formula

$8\% - [4\% \times (A - \$250,000,000)/\$250,000,000]$.

Interpretation.

In the formulas in the first paragraph, A is the greater of

(a) \$250,000,000; and

(b) the lesser of \$500,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24.

Expenses referred to.

The expenses referred to in subparagraph *b* of the first paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44 and in subparagraphs *a* to *d* of the first paragraph of this section are

(a) eligible expenses incurred before 5 June 2014 and those incurred after 4 June 2014 and before 1 July 2015, where the property is acquired on or before 4 June 2014 or, otherwise, where the property is acquired pursuant to an obligation in writing entered into on or before that date or its construction, by or on behalf of the purchaser, had begun by that date; or

(b) eligible expenses incurred in the period that begins on 16 August 2018 and ends on 31 December 2019, where the property is acquired in that period otherwise than pursuant to an obligation in writing entered into on or before 15 August 2018 and is not a property the construction of which, by or on behalf of the purchaser, had begun by that date.

History: 2009, c. 15, s. 303; 2010, c. 25, s. 177; 2015, c. 21, s. 464; 2017, c. 1, s. 292; 2020, c. 16, s. 151.

Additional increase.

1029.8.36.166.45.1. The rate to which subparagraph ii of subparagraph *a* of the first paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44 refers, in relation to the portion of a corporation's eligible expenses or to a corporation's share of the portion of a partnership's eligible expenses, in respect of a qualified property, for a taxation year is the rate determined by the formula

$10\% - [10\% \times (A - \$15,000,000) / \$5,000,000]$.

Interpretation.

In the formula in the first paragraph, A is the greater of

(a) \$15,000,000; and

(b) the lesser of \$20,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24.

History: 2015, c. 21, s. 465.

Temporary additional increase.

1029.8.36.166.45.2. The rate to which subparagraph iii of subparagraph *a* of the first paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44 refers, in relation to the portion of a corporation's eligible expenses or to a corporation's share of the portion of a partnership's eligible expenses, in respect of a qualified property, for a taxation year is

(a) if the property is acquired to be used mainly in a resource region, the rate determined by the formula

$5\% - [5\% \times (A - \$250,000,000)/\$250,000,000]$; or

(b) in any other case, the rate determined by the formula

$10\% - [10\% \times (A - \$250,000,000)/\$250,000,000]$.

Interpretation.

In the formulas in the first paragraph, A is the greater of

(a) \$250,000,000; and

(b) the lesser of \$500,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24.

History: 2020, c. 16, s. 152.

Credit relating to unused portion for preceding year.

1029.8.36.166.46. Subject to section 1029.8.36.166.49, a corporation that encloses the prescribed form containing prescribed information with the fiscal return it is required to file under section 1000 for a particular taxation year, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation's balance-due day for the particular year, on account of its tax payable for that year under this Part, an amount equal to the aggregate of all amounts each of which is the lesser of

(a) the amount by which the unused portion of the tax credit of the corporation for a taxation year (in subparagraph *b* referred to as the "original year") that is any of the 20 taxation years that precede the particular year, exceeds the aggregate of all amounts each of which is an amount deemed

to have been paid to the Minister by the corporation under this section or section 1029.8.36.166.47, in respect of the unused portion of the tax credit, on account of its tax payable for a taxation year preceding the particular year; and

(b) the amount by which the corporation's limit relating to an unused portion for the particular year exceeds the aggregate of all amounts each of which is equal to the amount deemed to be paid by the corporation under this section, for the particular year, in respect of the unused portion of the tax credit of the corporation for a taxation year preceding the original year.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027 or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2009, c. 15, s. 303.

Credit relating to unused portion for subsequent year.

1029.8.36.166.47. Subject to section 1029.8.36.166.50, a corporation is deemed, for a particular taxation year ending after 13 March 2008, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file under section 1000 for a taxation year (in this section referred to as the "subsequent year") that is any of the three taxation years that follow the particular year, to have paid to the Minister, in relation to the unused portion of the tax credit of the corporation for the subsequent year, on the day on which the form is filed with the Minister, an amount equal to the lesser of

(a) the amount by which the unused portion of the tax credit of the corporation for the subsequent year exceeds the aggregate of all amounts each of which is an amount deemed to have been paid to the Minister by the corporation under

this section, in respect of the unused portion, for a taxation year preceding the particular year; and

(b) the amount by which its total taxes for the particular year exceed the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister for the particular year under any of sections 1029.8.36.166.43, 1029.8.36.166.44 and 1029.8.36.166.46, or under this section in respect of the unused portion of the tax credit of the corporation for a taxation year preceding the subsequent year.

History: 2009, c. 15, s. 303.

Restriction.

1029.8.36.166.48. No amount may be deemed to have been paid to the Minister by a qualified corporation for a taxation year under section 1029.8.36.166.43 or 1029.8.36.166.44, in relation to its eligible expenses or its share of a partnership's eligible expenses, as the case may be, in respect of a qualified property, if, at any time before the day after the day that is the end of the period of 730 days following the beginning of the use of the property by the first purchaser of the property or by a subsequent purchaser of the property that acquired it in any of the circumstances in which section 130R149 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) applies, or, if it precedes the day that is the end of that period, the corporation's filing-due date for that taxation year, the property ceases, otherwise than by reason of its loss, of its involuntary destruction by fire, theft or water, or of a major breakdown of the property, to be used solely in Québec to earn income from a business carried on

(a) by the first purchaser of the property and if that time is also in the portion of that period in which the first purchaser owns the property; or

(b) by a subsequent purchaser of the property that acquired it in any of the circumstances in which section 130R149 of the Regulation respecting the Taxation Act applies, and if that time is also in the portion of that period in which the subsequent purchaser owns the property.

History: 2009, c. 15, s. 303.

Acquisition of control.

1029.8.36.166.49. If, at any time, control of a corporation is acquired by a person or group of persons, no amount may, for a taxation year ending after that time, be deemed, under section 1029.8.36.166.46, to have been paid to the Minister by the corporation in respect of the unused portion of the tax credit of the corporation for a taxation year ending before that time.

Continuance of business.

However, subject to section 1029.8.36.166.48, the corporation may be deemed to have paid an amount to the Minister, for a particular taxation year ending after that time,

in respect of the portion of an unused portion of the tax credit for a taxation year ending before that time that may reasonably be considered to be attributable to the carrying on of a business, if the corporation carried on the business throughout the particular year for profit or with a reasonable expectation of profit.

Rule relating to limit.

The amount that the corporation may be deemed to have paid to the Minister for the particular year under section 1029.8.36.166.46 in respect of the portion referred to in the second paragraph must be determined as if the reference to the total taxes determined for the purpose of establishing, for the particular year, the corporation's limit relating to an unused portion referred to in subparagraph *b* of the first paragraph of that section were a reference to the portion of such total taxes of the corporation for the particular year that may reasonably be attributed to the carrying on of that business and—if the corporation sold, leased, rented or developed properties or rendered services in the course of carrying on that business before that time—of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2009, c. 15, s. 303.

Acquisition of control.

1029.8.36.166.50. If, at any time, control of a corporation is acquired by a person or group of persons, no amount may, for a taxation year ending before that time, be deemed, under section 1029.8.36.166.47, to have been paid to the Minister by the corporation in respect of the unused portion of the tax credit of the corporation for a taxation year ending after that time.

Continuance of business.

However, the corporation may be deemed to have paid an amount to the Minister, for a particular taxation year ending before that time, in respect of the portion of an unused portion of the tax credit for a taxation year ending after that time that may reasonably be considered to be attributable to the carrying on of a business, if the corporation carried on the business throughout the taxation year and in the particular year for profit or with a reasonable expectation of profit.

Rule relating to total taxes.

The amount that the corporation may be deemed to have paid to the Minister for the particular year under section 1029.8.36.166.47 in respect of the portion referred to in the second paragraph must be determined as if the reference to the total taxes in that section were a reference to the portion of the total taxes of the corporation for the particular year that may reasonably be attributed to the carrying on of that business and—if the corporation sold, leased, rented or developed properties or rendered services in

the course of carrying on that business before that time—of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2009, c. 15, s. 303.

Leasing properties.

1029.8.36.166.51. For the purposes of this division, a corporation or partnership deemed to have acquired a property at a particular time under paragraph *b* of section 125.1 is deemed to have acquired the property at that time at a cost of acquisition, incurred and paid at that time, equal to the fair market value of the property at that time, and to own the property from that time to the time at which it is deemed to dispose of the property under paragraph *f* of section 125.1.

History: 2009, c. 15, s. 303.

§3. — *Government assistance, non-government assistance and other particulars*

Eligible expenses reduced by assistance.

1029.8.36.166.52. For the purpose of computing the amount that is deemed to have been paid to the Minister by a corporation, for a taxation year, under section 1029.8.36.166.43 or 1029.8.36.166.44, the following rules apply:

(a) the amount of the eligible expenses referred to in the first paragraph of section 1029.8.36.166.43 is to be reduced, if applicable, by the amount of any government assistance or non-government assistance attributable to the expenses that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation's filing-due date for the taxation year;

(b) the corporation's share of the eligible expenses of a partnership, referred to in the first paragraph of section 1029.8.36.166.44, for a fiscal period of the partnership that ends in the corporation's taxation year, is to be reduced, if applicable,

i. by the corporation's share of the amount of any government assistance or non-government assistance attributable to the expenses that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of any government assistance or non-government assistance attributable to the expenses that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period.

Corporation's share.

For the purposes of subparagraph *i* of subparagraph *b* of the first paragraph, the corporation's share, for the partnership's fiscal period, of the amount of any government assistance or non-government assistance that the partnership has received, is entitled to receive or may reasonably expect to receive, is equal to the agreed proportion of the amount in respect of the corporation for the fiscal period.

History: 2009, c. 15, s. 303.

Reduction of unused portion of tax credit.

1029.8.36.166.53. For the purpose of computing the amount that a corporation is deemed to have paid to the Minister under section 1029.8.36.166.46 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, in relation to eligible expenses of the corporation or of a partnership of which it is a member at the end of the fiscal period of the partnership ending in the particular preceding year, the unused portion of the tax credit of the corporation, otherwise determined, is to be reduced by the amount determined under the second paragraph if

(a) in the particular year or a preceding taxation year, an amount relating to the eligible expenses of the corporation, other than an amount reducing those expenses in accordance with section 1029.8.36.166.52 or 1029.8.36.166.60, is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or

(b) in a fiscal period of the partnership ending in the particular year or in a preceding taxation year and at the end of which the corporation is a member of the partnership, an amount relating to the eligible expenses of the partnership, other than an amount reducing those expenses in accordance with section 1029.8.36.166.52 or 1029.8.36.166.60, is, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

Amount of reduction.

The amount to which the first paragraph refers is equal to the amount by which the unused portion of the tax credit of the corporation for the particular preceding year, otherwise determined, exceeds the amount that would be the amount of the unused portion of the tax credit of the corporation if

(a) any amount referred to in subparagraph *a* or *b* of the first paragraph that is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation were directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation in the particular preceding year; and

(b) any amount referred to in subparagraph *b* of the first paragraph that is, directly or indirectly, refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership were directly or indirectly, refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership in the fiscal period of the partnership ending in the particular preceding year.

Amount deemed paid.

If, in respect of the eligible expenses referred to in the first paragraph, a person other than the corporation, or a partnership other than the partnership of which the corporation is a member, has obtained, at a particular time, a benefit or advantage that would have reduced those expenses in accordance with section 1029.8.36.166.60 if the person or partnership had obtained it, had been entitled to obtain it or could reasonably have expected to obtain it on or before the corporation's filing-due date for the particular preceding taxation year, or on or before the day that is six months after the end of the fiscal period of the partnership of which the corporation is a member that ended in the particular preceding taxation year, the benefit or advantage is, for the purposes of the first and second paragraphs,

(a) if those expenses were incurred by the corporation, deemed to be an amount that is paid to the corporation at that time; or

(b) if those expenses were incurred by the partnership of which the corporation is a member, deemed to be

i. an amount that is paid to that partnership at that time, when that benefit or advantage has been obtained by another partnership or by a person other than the person referred to in subparagraph *ii*, or

ii. an amount that is paid to the corporation at that time, when that benefit or advantage has been obtained by a person with whom the corporation does not deal at arm's length.

History: 2009, c. 15, s. 303.

Eligible expenses deemed repaid.

1029.8.36.166.54. For the purpose of applying section 1029.8.36.166.53 to a corporation for a taxation year, if a qualified property in respect of which expenses, incurred by the corporation or a partnership, are eligible expenses of the corporation for a particular preceding taxation year or of the partnership for a fiscal period of the partnership that ends in the particular preceding year and at the end of which the corporation was a member of the partnership, ceases, at a particular time of the period described in the second paragraph, otherwise than by reason of its loss, of its involuntary destruction by fire, theft or water, or of a major breakdown of the property, to be used solely in Québec to earn income from a business carried on in the following manner, the eligible expenses are deemed to be repaid to the corporation or partnership, as the case may be, at that time:

(a) by the first purchaser of the property and that time is also in the portion of that period in which the first purchaser owns the property; or

(b) by a subsequent purchaser of the property that acquired it in any of the circumstances in which section 130R149 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) applies, and that time is also in the portion of that period in which the subsequent purchaser owns the property.

Period referred to.

The period to which the first paragraph refers is the period that begins on the particular day on which the property begins to be used by the first purchaser of the property or by a subsequent purchaser of the property that acquired it in any of the circumstances in which section 130R149 of the Regulation respecting the Taxation Act applies, and that ends 730 days after the particular day or—if it precedes the day that is 730 days after the particular day—on the corporation's filing-due date for the taxation year that includes the particular time or for the corporation's taxation year in which the partnership's fiscal period that includes the particular time ends, as the case may be.

Exception.

This section does not apply to a corporation for a taxation year, in relation to eligible expenses in respect of a qualified property of the corporation for a particular preceding taxation year or of a partnership of which the corporation is a member for a fiscal period that ends in the particular preceding taxation year, if section 1029.8.36.166.48 applied, in relation to the eligible expenses, for the particular preceding taxation year.

History: 2009, c. 15, s. 303.

Repayment of assistance by corporation.

1029.8.36.166.55. If a corporation pays, in a taxation year (in this section referred to as the “repayment year”), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *a* of the first paragraph of section 1029.8.36.166.52, the eligible expenses of the corporation in respect of a qualified property, for the purpose of computing the amount that it is deemed to have paid to the Minister under section 1029.8.36.166.43 in respect of the expenses, for a particular taxation year, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for the repayment year, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the repayment year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is an amount that it would be deemed to have paid to the Minister, in respect of the expenses, under section 1029.8.36.166.43 for the particular year, or under section 1029.8.36.166.46 or

1029.8.36.166.47 for another taxation year that precedes the repayment year, if any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.166.52, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister, in respect of the expenses, under section 1029.8.36.166.43 for the particular year, or under section 1029.8.36.166.46 or 1029.8.36.166.47 for another taxation year that precedes the repayment year; and

(b) any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount of repayment of that assistance.

History: 2009, c. 15, s. 303.

Repayment of assistance by partnership.

1029.8.36.166.56. If a partnership pays, in a fiscal period (in this section referred to as the “fiscal period of repayment”), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.166.52, a corporation's share of the eligible expenses of the partnership in respect of a qualified property for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.44, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if the corporation is a member of the partnership at the end of the fiscal period of repayment and if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.44 for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.166.46 or 1029.8.36.166.47 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the eligible expenses of the partnership in respect of the property, under section 1029.8.36.166.44 for its taxation year in which the particular fiscal period ends, or

under section 1029.8.36.166.46 or 1029.8.36.166.47 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance repaid at or before the end of the fiscal period of repayment reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.166.52; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2009, c. 15, s. 303.

Repayment of assistance by member.

1029.8.36.166.57. If a corporation is a member of a partnership at the end of a fiscal period of the partnership (in this section referred to as the “fiscal period of repayment”) and pays, in the fiscal period of repayment, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.166.52, its share of the eligible expenses of the partnership in respect of a qualified property for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.44, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation’s balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.44 for its taxation year in which the

particular fiscal period ends, or under section 1029.8.36.166.46 or 1029.8.36.166.47 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the share, under section 1029.8.36.166.44 for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.166.46 or 1029.8.36.166.47 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance repaid at or before the end of the fiscal period of repayment reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.166.52; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2009, c. 15, s. 303.

Deemed repayment of assistance.

1029.8.36.166.58. For the purposes of sections 1029.8.36.166.55 to 1029.8.36.166.57, an amount of assistance is deemed to be repaid, at a particular time, by a corporation or partnership pursuant to a legal obligation, if that amount

(a) reduced, because of section 1029.8.36.166.52, eligible expenses or the share of such expenses of a corporation that is a member of the partnership, for the purpose of computing the amount that the corporation or the corporation that is a member of the partnership is deemed to have paid to the Minister for a taxation year under section 1029.8.36.166.43 or 1029.8.36.166.44;

(b) was not received by the corporation or partnership; and

(c) ceased at the particular time to be an amount that the corporation or partnership may reasonably expect to receive.

History: 2009, c. 15, s. 303.

Unused portion of tax credit to be increased.

1029.8.36.166.59. For the purpose of computing the amount that a corporation is deemed to have paid to the Minister under section 1029.8.36.166.46 for a particular taxation year in respect of the unused portion of the tax credit of the corporation for a particular preceding taxation year, the unused portion of the tax credit of the corporation, otherwise determined, must, if the conditions set out in the second paragraph are met for the particular year or for a preceding taxation year (each of which is referred to in this section as a “year of increase”), be increased by the aggregate of all amounts each of which is the excess amount referred to in subparagraph *b* of the second paragraph for a year of increase.

Conditions.

For the purposes of the first paragraph, the conditions that must be met for a year of increase are as follows:

(a) any of sections 1029.8.36.166.55 to 1029.8.36.166.58 applies for the year of increase to the corporation in relation to a particular amount that may reasonably be considered to be a repayment, made in the year of increase or in the fiscal period of a partnership ending in the year of increase, of government assistance or non-government assistance that reduced, because of section 1029.8.36.166.52, the eligible expenses of the corporation, in respect of a qualified property, for the particular preceding year or the corporation’s share of the eligible expenses of the partnership, in respect of a qualified property, for a fiscal period of the partnership ending in the particular preceding year; and

(b) the amount determined under the third paragraph exceeds the amount determined under the fourth paragraph.

Amount referred to.

The first amount to which subparagraph *b* of the second paragraph refers is the total amount that the corporation would be deemed to have paid to the Minister for the particular preceding year under sections 1029.8.36.166.43 and 1029.8.36.166.44 if

(a) no reference were made to the third paragraph of sections 1029.8.36.166.43 and 1029.8.36.166.44;

(b) where section 1029.8.36.166.56 or 1029.8.36.166.57 applies for the year of increase to the corporation, the agreed proportion in respect of the corporation for the fiscal period of the partnership ending in the particular preceding year were the same as that for the year of increase; and

(c) any particular amount referred to in subparagraph *a* of the second paragraph that may reasonably be considered to be a repayment of government assistance or non-government assistance referred to in that subparagraph *a* reduced the amount of government assistance or non-government assistance.

Amount referred to.

The second amount to which subparagraph *b* of the second paragraph refers is the aggregate of

(a) the amount that would be determined under the third paragraph if no reference were made to subparagraph *c* of that paragraph; and

(b) the total amount that the corporation is deemed to have paid to the Minister for the year of increase under sections 1029.8.36.166.55 to 1029.8.36.166.57.

History: 2009, c. 15, s. 303; 2010, c. 25, s. 178.

Benefit or advantage.

1029.8.36.166.60. If, in respect of eligible expenses of a qualified corporation or of a qualified partnership, in respect of a qualified property, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the acquisition of the qualified property, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.166.43, the amount of the eligible expenses is to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation’s filing-due date for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.44 by a qualified corporation that is a member of the qualified partnership, the corporation’s share, for a fiscal period of the partnership that ends in the taxation year, of the amount of the eligible expenses, is to be reduced

i. by the corporation’s share, for the fiscal period, of the amount of the benefit or advantage that the person or partnership, other than a person referred to in subparagraph ii, has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of the benefit or advantage that the qualified corporation or a person with whom it does not deal at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period.

Qualified corporation's share.

For the purposes of subparagraph i of subparagraph b of the first paragraph, the share, for a fiscal period of a qualified partnership, of a qualified corporation that is a member of the qualified partnership of the amount of the benefit or advantage that the partnership, or a person referred to in that subparagraph i, has obtained, is entitled to obtain or may reasonably expect to obtain, is equal to the agreed proportion of the amount in respect of the qualified corporation for the fiscal period.

History: 2009, c. 15, s. 303.

DIVISION II.6.14.2.1

CREDIT IN RESPECT OF A BUILDING USED IN CONNECTION WITH MANUFACTURING OR PROCESSING ACTIVITIES

§1. — *Interpretation and general rules*

Definitions:

1029.8.36.166.60.1. In this division,

“aluminum producing corporation”;

“aluminum producing corporation” for a taxation year means a corporation that, at any time in the year after 7 October 2013, carries on an aluminum producing business or is the owner or lessee of property used in the course of carrying on such a business by another corporation, a partnership or a trust, with which the corporation is associated;

“associated group”;

“associated group” has the meaning assigned by section 1029.8.36.166.60.6;

“excluded corporation”;

“excluded corporation” for a taxation year means

(a) a corporation that is exempt from tax for the year under Book VIII;

(b) a corporation that would be exempt from tax for the year under section 985, but for section 192;

(c) an aluminum producing corporation for the year; or

(d) an oil refining corporation for the year;

“excluded partnership”;

“excluded partnership” for a fiscal period means a partnership that, at any time in the fiscal period after 7 October 2013, carries on an aluminum producing business or an oil refining business;

“expenditure of a capital nature”;

“expenditure of a capital nature” of a corporation for a particular taxation year or of a partnership for a particular fiscal period, in respect of a qualified building, means, except for the purposes of the second paragraph,

(a) for a corporation, the aggregate of the following expenditures incurred after 7 October 2013 and before 1 July 2015 in respect of the qualified building, except expenditures incurred with a person with whom the corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm's length:

i. where the corporation is a qualified manufacturing corporation for the particular taxation year, the expenditures incurred by the corporation in the particular year to acquire the qualified building that are included, at the end of that year, in the capital cost of the qualified building and that are paid in the particular year,

ii. the amount by which the expenditures incurred by the corporation in the particular taxation year or in a preceding taxation year, for which the corporation is a qualified manufacturing corporation, to acquire the qualified building, that are included at the end of the particular year or of the preceding year, as the case may be, in the capital cost of the qualified building and that are paid after the end of the particular year or of the preceding year, as the case may be, but not later than 18 months after the end of that year, exceeds the portion of those expenditures that is included in the corporation's qualified expenditure in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.60.8 for a taxation year preceding the particular year, and

iii. the expenditures incurred by the corporation to acquire the qualified building that are included in the capital cost of the qualified building and that are paid in the particular taxation year, if the expenditures are paid more than 18 months after the end of the corporation's taxation year in which they were incurred and for which the corporation was a qualified manufacturing corporation; and

(b) for a partnership, the aggregate of the following expenditures incurred after 7 October 2013 and before 1 July 2015 in respect of the qualified building, except expenditures incurred with a corporation that is a member of the partnership or with a person with whom such a corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm's length:

i. where the partnership is a qualified manufacturing partnership for the particular fiscal period, the expenditures incurred by the partnership in the particular fiscal period to acquire the qualified building that are included, at the end of that fiscal period, in the capital cost of the qualified building and that are paid in that fiscal period,

ii. the amount by which the expenditures incurred by the partnership in the particular fiscal period or in a preceding fiscal period, for which the partnership is a qualified manufacturing partnership, to acquire the qualified building that are included at the end of the particular fiscal period or of the preceding fiscal period, as the case may be, in the capital cost of the qualified building and that are paid after the end of the particular fiscal period or of the preceding fiscal period, as the case may be, but not later than 18 months after the end of that fiscal period, exceeds the portion of those expenditures that is included in the partnership's qualified expenditure in respect of which a member of the partnership would be deemed to have paid an amount to the Minister under section 1029.8.36.166.60.9 for a taxation year preceding that in which the particular fiscal period ends, if that section were read without reference to its third paragraph and, where the member was not a qualified corporation for that preceding taxation year, the member had been a qualified corporation for that preceding taxation year, and

iii. the expenditures incurred by the partnership to acquire the qualified building that are included in the capital cost of the qualified building and that are paid in the particular fiscal period, if the expenditures are paid more than 18 months after the end of the partnership's fiscal period in which they were incurred and for which the partnership was a qualified manufacturing partnership;

“large investment project”;

“large investment project” has the meaning assigned by the first paragraph of section 737.18.17.1;

“oil refining corporation”;

“oil refining corporation” for a taxation year means a corporation that, at any time in the year after 7 October 2013, carries on an oil refining business or is the owner or lessee of property used in the course of carrying on such a business by another corporation, a partnership or a trust, with which the corporation is associated;

“qualified building”;

“qualified building” of a qualified corporation or of a qualified partnership means a building situated in Québec or an addition to such a building, that is acquired by the corporation in a taxation year for which it is a qualified manufacturing corporation or by the partnership in a fiscal period for which it is a qualified manufacturing partnership that would, but for section 93.6, be included in any of Classes 1, 3 and 6 in Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) or in Class 10 in that Schedule under subparagraph *a* of the second paragraph of that class, and

(a) it is acquired after 7 October 2013 but is not a property acquired pursuant to an obligation in writing entered into before 8 October 2013 or the construction of which, if applicable, by or on behalf of the purchaser, had begun by 7 October 2013, and before 5 June 2014 except where the property is acquired pursuant to an obligation in writing entered into on or before 4 June 2014 or the construction of

the property, by or on behalf of the purchaser, had begun by 4 June 2014;

(b) it is acquired to be used mainly for manufacturing or processing activities, other than activities listed in section 130R12 of the Regulation respecting the Taxation Act, and in the course of carrying on a business, other than a recognized business in connection with which a large investment project is carried out or is in the process of being carried out;

(c) is not acquired to be used or is not used in the course of operating an ethanol plant; and

(d) was not, before its acquisition, used for any purpose or acquired to be used or leased for any purpose whatever;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation, other than an excluded corporation for the year, that, in the year, carries on a business in Québec and has an establishment in Québec;

“qualified expenditure”;

“qualified expenditure” of a qualified corporation for a particular taxation year or of a qualified partnership for a particular fiscal period, in respect of a qualified building, means

(a) in the case of a qualified corporation that is not associated with any other corporation in the particular year,

i. if in the particular year it acquired qualified property, for the purposes of Division II.6.14.2, for a total amount of at least \$25,000 or if it acquired such property for a total amount of less than \$25,000 in the particular year or in the preceding taxation year and the total amount for which such property was acquired by the corporation in those two years is at least \$25,000, other than property acquired from a person with whom the corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the corporation, in respect of the qualified building, for the particular year or a preceding taxation year except where, in the case of an expenditure of a capital nature for a preceding taxation year, the expenditure of a capital nature is or may be included in the amount of the corporation's qualified expenditure for a taxation year preceding the particular year, or

ii. if subparagraph i does not apply to the qualified corporation and the corporation acquired qualified property, for the purposes of Division II.6.14.2, in the taxation year preceding the particular year for a total amount of at least \$25,000, other than property acquired from a person with whom the corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the

corporation for the particular year, in respect of the qualified building;

(b) in the case of a qualified corporation that is associated with one or more other corporations in the particular year,

i. if the qualified corporation acquired qualified property in the particular year and the corporations with which it is so associated acquired qualified property in a taxation year that ends in the particular year, for the purposes of Division II.6.14.2, for a total amount of at least \$25,000 or if the qualified corporation and the corporations with which it is so associated acquired such property for a total amount of less than \$25,000 in the particular year or in a taxation year that ends in the particular year, as the case may be, or in the preceding taxation year or a taxation year that ends in the preceding taxation year, as the case may be, and the total amount for which such property was acquired by the corporations in those two years is at least \$25,000, other than property acquired from a person with whom the purchaser, a specified shareholder of the purchaser or, if the purchaser is a cooperative, a specified member of the purchaser, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the corporation, in respect of the qualified building, for the particular year or a preceding taxation year except where, in the case of an expenditure of a capital nature for a preceding taxation year, the expenditure of a capital nature is or may be included in the amount of the corporation's qualified expenditure for a taxation year preceding the particular year, or

ii. if subparagraph i does not apply to the qualified corporation and the corporation acquired qualified property in the taxation year preceding the particular year and the corporations with which it is so associated acquired qualified property in a taxation year that ends in the taxation year preceding the particular year, for the purposes of Division II.6.14.2, for a total amount of at least \$25,000, other than property acquired from a person with whom the purchaser, a specified shareholder of the purchaser or, if the purchaser is a cooperative, a specified member of the purchaser, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the corporation for the particular year, in respect of the qualified building; or

(c) in the case of a qualified partnership,

i. if in the particular fiscal period it acquired qualified property, for the purposes of Division II.6.14.2, for a total amount of at least \$25,000 or if it acquired such property for a total amount of less than \$25,000 in the particular fiscal period or in the preceding fiscal period and the total amount for which such property was acquired by the partnership in those two fiscal periods is at least \$25,000, other than property acquired from a corporation that is a member of the partnership or from a person with whom such a corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the

corporation, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the partnership, in respect of the qualified building, for the particular fiscal period or a preceding fiscal period except where, in the case of an expenditure of a capital nature for a preceding fiscal period, the expenditure of a capital nature is or may be included in the amount of the partnership's qualified expenditure for a fiscal period preceding the particular fiscal period, or

ii. if subparagraph i does not apply to the qualified partnership and the partnership acquired qualified property, for the purposes of Division II.6.14.2, in the fiscal period preceding the particular fiscal period for a total amount of at least \$25,000, other than property acquired from a corporation that is a member of the partnership or from a person with whom such a corporation, a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of the corporation, is not dealing at arm's length, the aggregate of all amounts each of which is equal to the amount of an expenditure of a capital nature of the partnership for the particular fiscal period, in respect of the qualified building;

“qualified manufacturing corporation”;

“qualified manufacturing corporation” has the meaning assigned by the first paragraph of section 1029.8.36.166.40;

“qualified manufacturing partnership”;

“qualified manufacturing partnership” has the meaning assigned by the first paragraph of section 1029.8.36.166.40;

“qualified partnership”;

“qualified partnership” for a fiscal period means a partnership, other than an excluded partnership for the fiscal period, that, in the fiscal period, carries on a business in Québec and has an establishment in Québec;

“recognized business”;

“recognized business” has the meaning assigned by the first paragraph of section 737.18.17.1;

“specified member”.

“specified member” of a corporation that is a cooperative, in a taxation year, means a member having, directly or indirectly, at any time in the year, at least 10% of the votes at a meeting of the members of the cooperative.

Building deemed used in carrying on a recognized business.

For the purposes of paragraph *b* of the definition of “qualified building” in the first paragraph, a building that is acquired in connection with the carrying out of a large investment project is deemed to be used in the course of carrying on a recognized business referred to in that paragraph that the corporation or partnership begins to carry on at a particular time and that relates to the large investment project, if the expenditures of a capital nature for its acquisition are incurred by the corporation or partnership in the period that begins at the beginning of the carrying out of the project and ends immediately before the particular time.

Exclusion of certain expenditures.

For the purposes of the definition of “expenditure of a capital nature” in the first paragraph, an expenditure that is included, at the end of a taxation year or fiscal period, in the capital cost of a building does not include an expenditure so included under section 180 or 182.

History: 2015, c. 21, s. 466; 2019, c. 14, s. 361; 2020, c. 16, s. 153.

Balance of a corporation’s cumulative limit.

1029.8.36.166.60.2. For the purposes of this division, the balance of a qualified corporation’s cumulative limit for a particular taxation year is equal,

(a) if the qualified corporation is not associated with another corporation in the particular year, to the amount by which \$150,000 exceeds the amount by which the aggregate of all amounts each of which is the qualified corporation’s qualified expenditure, in respect of a qualified building, for a taxation year preceding the particular year, or its share of a partnership’s qualified expenditure, in respect of a qualified building, for a fiscal period of the partnership that ends in such a preceding taxation year, in respect of which an amount is deemed to have been paid to the Minister by the corporation for the preceding year under section 1029.8.36.166.60.8 or 1029.8.36.166.60.9, as the case may be, exceeds the amount determined in accordance with the fifth paragraph; or

(b) if the qualified corporation is associated with one or more other corporations in the particular year, to the amount attributed for the particular year to the qualified corporation pursuant to the agreement described in the second paragraph and filed with the Minister in the prescribed form or, if no amount is attributed to the qualified corporation pursuant to that agreement or in the absence of such an agreement, to zero or to the amount attributed to it by the Minister, if applicable, for the particular year in accordance with this division.

Agreement.

The agreement to which subparagraph *b* of the first paragraph refers, in respect of a particular taxation year of the qualified corporation, is the agreement under which all the corporations that are associated with each other in the particular taxation year attribute, for the purposes of this section, to one or more of their number one or more amounts the total of which is not greater than the amount by which \$150,000 exceeds the amount by which the aggregate of the following amounts exceeds the amount determined in accordance with the sixth paragraph, where each of those amounts is

(a) the qualified expenditure of a corporation that is a member of the group of corporations associated with each other in the particular year, in respect of a qualified building, for a taxation year that ends before the beginning of the

particular year, in relation to which an amount is deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.60.8; or

(b) the share of a corporation that is a member of the group of corporations associated with each other in the particular year of the qualified expenditure of a partnership, in respect of a qualified building, for a fiscal period of the partnership that ends in a taxation year of the corporation that ends before the beginning of the particular year, in relation to which an amount is deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.60.9.

Excess attribution.

If the aggregate of the amounts attributed, in respect of a taxation year, in an agreement described in the second paragraph and entered into with the corporations that are associated with each other in the particular year is greater than the first excess amount referred to in that paragraph, the amount determined under subparagraph *b* of the first paragraph in respect of each of those corporations for that taxation year is deemed, for the purposes of this section, to be equal to the proportion of that excess amount that that amount is of the aggregate of the amounts attributed for that year in the agreement.

Member’s share.

For the purposes of subparagraph *a* of the first paragraph and subparagraph *b* of the second paragraph, a corporation’s share of the qualified expenditure, in respect of a qualified building, of a partnership for a fiscal period is equal to the agreed proportion of that expenditure in respect of the corporation for the fiscal period.

Computation of the cumulative limit balance.

The amount to which subparagraph *a* of the first paragraph refers is equal to the aggregate of all amounts each of which is the product obtained by multiplying a tax that the corporation is required to pay for the particular taxation year or a preceding taxation year under Part III.10.9.2.1 in respect of a qualified expenditure of the corporation or the corporation’s share of a qualified expenditure of a partnership of which it is a member, in relation to which the corporation is deemed to have paid an amount to the Minister under this division for a taxation year preceding the particular year, by the reciprocal of the rate determined in respect of the corporation under section 1029.8.36.166.60.10 for that preceding taxation year in relation to the corporation’s qualified expenditure or the corporation’s share of the qualified expenditure of the partnership, as the case may be.

Computation of the cumulative limit balance.

The amount to which the second paragraph refers is equal to the aggregate of all amounts each of which is the product obtained by multiplying a tax that a corporation that is a

member of the group of associated corporations referred to in the second paragraph is required to pay for the particular taxation year or a preceding taxation year under Part III.10.9.2.1 in respect of a qualified expenditure of the corporation or the corporation's share of a qualified expenditure of a partnership of which it is a member, in relation to which the corporation is deemed to have paid an amount to the Minister under this division for a preceding taxation year, by the reciprocal of the rate determined in respect of the corporation under section 1029.8.36.166.60.10 for that preceding taxation year in relation to the corporation's qualified expenditure or the corporation's share of the qualified expenditure of the partnership, as the case may be.

History: 2015, c. 21, s. 466.

Amount to be attributed.

1029.8.36.166.60.3. If a corporation associated with one or more other corporations in a taxation year fails to file with the Minister an agreement for the purposes of this division within 30 days after notice in writing by the Minister has been sent to any of the corporations so associated with each other that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, attribute for the taxation year an amount to one or more of the corporations so associated, which amount or the aggregate of which amounts must be equal to the first excess amount referred to in the second paragraph of section 1029.8.36.166.60.2 and determined for the year; in any such case, the balance of the cumulative limit of each of those corporations for the year is equal to the amount so attributed to it.

History: 2015, c. 21, s. 466.

Balance of a partnership's cumulative limit.

1029.8.36.166.60.4. For the purposes of this division, the balance of a qualified partnership's cumulative limit for a fiscal period is equal to the amount by which \$150,000 exceeds the aggregate of all amounts each of which is the amount by which the qualified partnership's qualified expenditure, in respect of a qualified building, for a preceding fiscal period exceeds the amount of any government assistance, non-government assistance, benefit or advantage attributable to that expenditure, that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period.

History: 2015, c. 21, s. 466.

Paid-up capital of a corporation.

1029.8.36.166.60.5. The paid-up capital of a corporation for a particular taxation year is equal,

(a) where the corporation is not a member of an associated group in the particular year, to its paid-up capital, determined

in accordance with the second paragraph, for the taxation year preceding the particular year; and

(b) where the corporation is a member of an associated group in the particular year, to the aggregate of all amounts each of which is its paid-up capital, determined in accordance with the second paragraph, for the taxation year preceding the particular year, and the paid-up capital of each other member of the group, determined in accordance with the second paragraph, for its last taxation year that ended before the beginning of the particular year.

Computation of paid-up capital.

For the purposes of this section,

(a) the paid-up capital of a corporation for a taxation year is

i. in respect of a corporation, except a corporation that is an insurer within the meaning assigned by the Insurers Act (chapter A-32.1), its paid-up capital that would be determined for that year in accordance with Book III of Part IV if no reference were made to section 1138.2.6, and

ii. in respect of a corporation that is an insurer within the meaning assigned by the Insurers Act, its paid-up capital that would be determined for that year in accordance with Title II of Book III of Part IV if it were a bank and paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136;

(b) a business carried on by an individual who is a member of an associated group in a taxation year is deemed to be carried on by a corporation referred to in subparagraph *i* of subparagraph *a* and a partnership or a trust which is a member of an associated group in a taxation year is deemed to be a corporation referred to in subparagraph *i* of subparagraph *a*, the paid-up capital of which is determined in accordance with Title I of Book III of Part IV but without reference to paragraph *b.1.2* of section 1137 and any participating interest of which in the nature of capital stock or surplus is deemed to be referred to in paragraph *a* or *b* of subsection 1 of section 1136; and

(c) the interest of a member of an associated group in a taxation year in another member of that group is deemed to be an investment in shares and bonds of another corporation.

First fiscal period.

For the purposes of subparagraph *a* of the first paragraph, where the particular year is the first fiscal period of the corporation, its paid-up capital is determined, in accordance with the second paragraph, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial

statements that would be prepared in accordance with generally accepted accounting principles.

First fiscal period.

For the purposes of subparagraph *b* of the first paragraph, where a member of the associated group, other than the corporation, has no taxation year ending before the beginning of the particular year, its paid-up capital is determined, in accordance with the second paragraph, on the basis of its financial statements prepared at the beginning of its first fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2015, c. 21, s. 466; 2018, c. 23, s. 811(2).

Associated group.

1029.8.36.166.60.6. An associated group in a taxation year means all the corporations that are associated with each other at any given time in the year.

Presumption.

For the purposes of the first paragraph, a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at that time by the individual.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 123.

Corporations deemed associated.

1029.8.36.166.60.7. If it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to cause a qualified corporation to be deemed to have paid an amount to the Minister under this division for that year or to increase an amount that a qualified corporation is deemed to have paid to the Minister under this division for that year, those corporations are deemed, for the purposes of this division, to be associated with each other in the year.

History: 2015, c. 21, s. 466.

§2. — *Credits*

Credit.

1029.8.36.166.60.8. A qualified corporation for a taxation year that encloses the documents referred to in the fourth paragraph with the fiscal return it is required to file for the year under section 1000 is deemed, subject to the third paragraph and section 1029.8.36.166.60.11, to have paid to the Minister on the qualified corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is equal to the product obtained by multiplying

the corporation's qualified expenditure for the year, in respect of a qualified building, by the rate determined in relation to that qualified expenditure under section 1029.8.36.166.60.10.

Limit on specified expenditures.

The aggregate of all amounts each of which is a corporation's qualified expenditure for a taxation year, in respect of a qualified building, may not exceed the amount that is the amount by which the balance of its cumulative limit for the year exceeds the aggregate of all amounts each of which is the corporation's share of the qualified expenditure of a qualified partnership, in respect of a qualified building, for a fiscal period that ends in the taxation year, in respect of which the corporation is deemed to have paid an amount to the Minister for the year under section 1029.8.36.166.60.9.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027 or any of sections 1159.7, 1175 and 1175.19 where those sections refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the agreement described in section 1029.8.36.166.60.2, if applicable.

History: 2015, c. 21, s. 466.

Credit.

1029.8.36.166.60.9. A qualified corporation for a taxation year that is a member of a qualified partnership at the end of a particular fiscal period of the qualified partnership that ends in the year and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph and section 1029.8.36.166.60.11, to have paid to the Minister on the qualified corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is equal to the product obtained by multiplying the corporation's share of the qualified expenditure of such a qualified partnership, in respect of a qualified building, for such a particular fiscal period by the rate determined in relation to its share of the qualified expenditure under section 1029.8.36.166.60.10.

Balance of the cumulative limit.

For the purposes of the first paragraph, the aggregate of all amounts each of which is the amount of a qualified partnership's qualified expenditure, in respect of a qualified building, for a fiscal period may not exceed the balance of the partnership's cumulative limit for that fiscal period.

Limit on qualified expenditures.

The aggregate of all amounts each of which is a corporation's share of a qualified partnership's qualified expenditure, in respect of a qualified building, for a fiscal period of the partnership that ends in a taxation year of the corporation may not exceed the amount that is the amount by which the balance of the corporation's cumulative limit for the taxation year exceeds the aggregate of all amounts each of which is the corporation's qualified expenditure, in respect of a qualified building, for the year in respect of which the corporation is deemed to have paid an amount to the Minister for the year under section 1029.8.36.166.60.8.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027 or any of sections 1159.7, 1175 and 1175.19 where those sections refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(*a*) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to

the Minister under this paragraph in the year but before that date; and

(*b*) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Qualified expenditure of a partnership.

Despite the definition of "qualified expenditure" in the first paragraph of section 1029.8.36.166.60.1 and for the purpose of applying this section to a qualified corporation referred to in the first paragraph, the qualified expenditure for a particular fiscal period, in respect of a qualified building, of a qualified partnership of which the corporation is a member does not include

(*a*) the expenditure of a capital nature that would otherwise be included in the qualified expenditure because of subparagraph ii of paragraph *b* of the definition of "expenditure of a capital nature" in the first paragraph of section 1029.8.36.166.60.1 and that is incurred in a fiscal period of the partnership preceding the particular fiscal period and ends in a taxation year for which the corporation was not a qualified corporation; or

(*b*) the expenditure of a capital nature that would otherwise be included in the qualified expenditure because of subparagraph iii of paragraph *b* of the definition of "expenditure of a capital nature" in the first paragraph of section 1029.8.36.166.60.1 and that is incurred in a fiscal period of the partnership that ends in a taxation year for which the corporation was not a qualified corporation.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(*a*) the prescribed form containing prescribed information; and

(*b*) a copy of the agreement described in section 1029.8.36.166.60.2, if applicable.

Member's share.

For the purposes of this section, the share of a member of a partnership of an amount for a fiscal period is equal to the agreed proportion of the amount in respect of the member for that fiscal period.

History: 2015, c. 21, s. 466.

Rate determined in relation to a qualified expenditure.

1029.8.36.166.60.10. The rate to which the first paragraph of sections 1029.8.36.166.60.8 and

1029.8.36.166.60.9 refers, in relation to a qualified corporation's qualified expenditure or such a corporation's share of the qualified expenditure of a qualified partnership, in respect of a qualified building, for a particular taxation year is,

(a) if the qualified building is situated in an administrative region referred to in any of subparagraphs iv to vii of paragraph *a* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40, the rate determined by the formula

$$50\% - [50\% \times (A - \$15,000,000) / \$5,000,000];$$

(b) if the qualified building is situated in one of the regional county municipalities referred to in subparagraphs i.2, i.3 and ii.2 of paragraph *b* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40 and

i. the corporation is not deemed to have paid an amount to the Minister for the particular taxation year under Division II.6.6.6.1, and is not associated, in the particular taxation year, with another corporation that is deemed to have paid an amount to the Minister under that Division II.6.6.6.1, for a taxation year that ends in the particular taxation year, the rate determined by the formula

$$45\% - [45\% \times (A - \$15,000,000) / \$5,000,000], \text{ or}$$

ii. subparagraph i does not apply to the corporation, the rate determined by the formula

$$40\% - [40\% \times (A - \$15,000,000) / \$5,000,000];$$

(c) if the qualified building is situated in an administrative region referred to in subparagraph ii or iii of paragraph *a* of the definition of "resource region" in the first paragraph of section 1029.8.36.166.40 or in any of the regional county municipalities referred to in subparagraphs i, i.1, ii, ii.1 and iii to vi of paragraph *b* of that definition and

i. the corporation is not deemed to have paid an amount to the Minister for the particular taxation year under Division II.6.6.6.1, and is not associated, in the particular taxation year, with another corporation that is deemed to have paid an amount to the Minister under that Division II.6.6.6.1, for a taxation year that ends in the particular taxation year, the rate determined by the formula

$$35\% - [35\% \times (A - \$15,000,000) / \$5,000,000], \text{ or}$$

ii. subparagraph i does not apply to the corporation, the rate determined by the formula

$$30\% - [30\% \times (A - \$15,000,000) / \$5,000,000]; \text{ and}$$

(d) in any other case, the rate determined by the formula

$$20\% - [20\% \times (A - \$15,000,000) / \$5,000,000].$$

Interpretation.

In the formulas in the first paragraph, A is the greater of

(a) \$15,000,000; and

(b) the lesser of \$20,000,000 and the corporation's paid-up capital for the year, determined in accordance with section 1029.8.36.166.60.5.

History: 2015, c. 21, s. 466.

Restriction.

1029.8.36.166.60.11. No amount may be deemed to have been paid to the Minister by a qualified corporation for a taxation year under section 1029.8.36.166.60.8 or 1029.8.36.166.60.9 in respect of a qualified building where, otherwise than by reason of its involuntary destruction by fire, theft or water,

(a) the qualified building is disposed of before the building begins to be used in a manner consistent with paragraph *b* of the definition of "qualified building" in the first paragraph of section 1029.8.36.166.60.1;

(b) the qualified corporation did not use the qualified building in a manner consistent with paragraph *b* of the definition of "qualified building" in the first paragraph of section 1029.8.36.166.60.1 at any time in the 48-month period that begins on the day after the last day of the taxation year where, for the first time, the qualified corporation incurred an expenditure of a capital nature in respect of the qualified building; or

(c) the qualified partnership did not use the qualified building in a manner consistent with paragraph *b* of the definition of "qualified building" in the first paragraph of section 1029.8.36.166.60.1 at any time in the 48-month period that begins on the day after the last day of the fiscal period where, for the first time, the qualified partnership incurred an expenditure of a capital nature in respect of the qualified building.

Reduction of a qualified expenditure.

Where a qualified corporation or a qualified partnership has begun to use a qualified building in a manner consistent with paragraph *b* of the definition of "qualified building" in the first paragraph of section 1029.8.36.166.60.1 within a 48-month period following the last day of the taxation year or fiscal period, as the case may be, where, for the first time, it incurred an expenditure of a capital nature in respect of the qualified building and, otherwise than by reason of its involuntary destruction by fire, theft or water, it disposes of the qualified building or ceases to use it in a manner consistent with that paragraph *b*, at any given time in the 48-month period that begins on the day on which that use began, the amount deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.60.8 or 1029.8.36.166.60.9 in respect of the qualified building is

deemed, for the purposes of that section, to be equal to the proportion of the amount otherwise determined that the number of months in the period that begins on the day on which the use began and that ends at the given time is of 48.

Rules of application.

For the purposes of this section, the following rules apply:

(a) a month means a period that begins on a particular day in a calendar month and that ends

i. on the day immediately before the day in the following calendar month that has the same calendar number as the particular day, or

ii. where the following calendar month does not have a day that has the same calendar number on the particular day, on the last day of the following month;

(b) a qualified building is deemed to be used in a manner consistent with paragraph *b* of the definition of “qualified building” in the first paragraph of section 1029.8.36.166.60.1 for an entire month if the building is so used for more than 15 days in the month;

(c) a qualified building that temporarily ceases to be used in a manner consistent with paragraph *b* of the definition of “qualified building” in the first paragraph of section 1029.8.36.166.60.1 is deemed to be used in a manner consistent with that paragraph *b* if the Minister is of the opinion that the use ceased for reasonable grounds; and

(d) where the qualified corporation disposes of a qualified building to a corporation with which it is associated at the time of the disposition, the qualified building is deemed not to have been disposed of at that time and the qualified corporation is deemed, from that time and for the purposes of this subparagraph, to be the same person as the purchaser of the qualified building.

History: 2015, c. 21, s. 466.

Leasing property.

1029.8.36.166.60.12. For the purposes of this division, a corporation or a partnership deemed to have acquired a property at a particular time under paragraph *b* of section 125.1 is deemed to have acquired the property at that time at a cost of acquisition, incurred and paid at that time, equal to the fair market value of the property at that time, and to own the property from that time to the time at which it is deemed to dispose of the property under paragraph *f* of that section 125.1.

History: 2015, c. 21, s. 466.

§3. — *Government assistance, non-government assistance and other particulars*

Assistance.

1029.8.36.166.60.13. For the purpose of computing the amount that is deemed to have been paid to the Minister by a corporation, for a taxation year, under section 1029.8.36.166.60.8 or 1029.8.36.166.60.9, the following rules apply:

(a) the corporation’s qualified expenditure referred to in the first paragraph of section 1029.8.36.166.60.8 is to be reduced by the amount of any government assistance or non-government assistance attributable to the expenditure that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the taxation year; and

(b) the corporation’s share of the qualified expenditure of a partnership referred to in the first paragraph of section 1029.8.36.166.60.9, for a fiscal period of the partnership that ends in the corporation’s taxation year, is to be reduced

i. by the corporation’s share of the amount of any government assistance or non-government assistance attributable to the expenditure that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of any government assistance or non-government assistance attributable to the expenditure that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period.

Member’s share.

For the purposes of subparagraph *i* of subparagraph *b* of the first paragraph, the corporation’s share, for the partnership’s fiscal period, of the amount of any government assistance or non-government assistance that the partnership has received, is entitled to receive or may reasonably expect to receive, is equal to the agreed proportion of the amount in respect of the corporation for the fiscal period.

History: 2015, c. 21, s. 466.

Repayment of assistance by a corporation.

1029.8.36.166.60.14. If, before 1 January 2020, a corporation pays in a taxation year (in this section referred to as the “repayment year”), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *a* of the first paragraph of section 1029.8.36.166.60.13, the corporation’s qualified expenditure in respect of a qualified building for the purpose of computing the amount that the corporation is deemed to

have paid to the Minister under section 1029.8.36.166.60.8 in respect of the expenditure, for a particular taxation year, the corporation is deemed to have paid to the Minister on its balance-due day for the repayment year, on account of its tax payable for that year under this Part, if the corporation encloses the prescribed form containing prescribed information with the fiscal return it is required to file under section 1000, for the repayment year, an amount equal to the amount by which the amount that the corporation would be deemed to have paid to the Minister, in respect of the qualified expenditure, under section 1029.8.36.166.60.8 for the particular year, if the particular amount that is the lesser of the aggregate of all amounts each of which is an amount of assistance so repaid at or before the end of the repayment year and the balance of the corporation's cumulative limit for the repayment year, had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.166.60.13, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister in respect of the qualified expenditure under section 1029.8.36.166.60.8 for the particular year; and

(b) any amount that the corporation is deemed to have paid to the Minister under this section for a taxation year preceding the repayment year, in respect of an amount of repayment of that assistance.

Presumption.

The particular amount to which the first paragraph refers is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation's cumulative limit for the repayment year and a subsequent taxation year, to be a qualified expenditure of the corporation in respect of the qualified building for a taxation year preceding the repayment year.

History: 2015, c. 21, s. 466.

Repayment of assistance by a partnership.

1029.8.36.166.60.15. If, before 1 January 2020, a partnership pays, in a fiscal period (in this section referred to as the "fiscal period of repayment"), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.166.60.13, a corporation's share of the qualified expenditure of the partnership in respect of a qualified building for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.60.9, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year

under this Part, if the corporation is a member of the partnership at the end of the fiscal period of repayment and it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.9 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the qualified expenditure of the partnership in respect of the qualified building, under section 1029.8.36.166.60.9 for its taxation year in which the particular fiscal period ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) the lesser of the corporation's share of any amount of assistance repaid at or before the end of the fiscal period of repayment and the balance of the corporation's cumulative limit for its taxation year in which the fiscal period of repayment ended reduced, for the particular fiscal period, the corporation's share of the amount of any government assistance or non-government assistance referred to in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.166.60.13; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Presumption.

The amount determined in accordance with subparagraph *a* of the second paragraph is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation's cumulative limit for the taxation year in which the fiscal period of repayment ends and a subsequent taxation year, to be the corporation's share of a qualified expenditure of the partnership in respect of a qualified building, for a fiscal period of the partnership that

ends in a taxation year of the corporation preceding the taxation year in which the fiscal period of repayment ends.

Member's share.

For the purposes of subparagraph *a* of the second paragraph, the corporation's share for the partnership's fiscal period of any amount of assistance repaid is equal to the agreed proportion of the amount in respect of the corporation for the fiscal period.

History: 2015, c. 21, s. 466.

Repayment of assistance by a member of a partnership.

1029.8.36.166.60.16. If, before 1 January 2020, a corporation is a member of a partnership at the end of a fiscal period of the partnership (in this section referred to as the "fiscal period of repayment") and pays, in the fiscal period of repayment, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.166.60.13, its share of the qualified expenditure of the partnership in respect of a qualified building for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.60.9, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.9 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.9 for its taxation year in which the particular fiscal period ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) the lesser of any amount of assistance repaid at or before the end of the fiscal period of repayment and the balance of the corporation's cumulative limit for its taxation year in which the fiscal period of repayment ended reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.166.60.13; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Presumption.

The amount determined in accordance with subparagraph *a* of the second paragraph is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation's cumulative limit for the taxation year in which the fiscal period of repayment ends and a subsequent taxation year, to be the corporation's share of a qualified expenditure of the partnership in respect of a qualified building, for a fiscal period of the partnership that ends in a taxation year of the corporation preceding the taxation year in which the fiscal period of repayment ends.

History: 2015, c. 21, s. 466.

Deemed repayment of assistance.

1029.8.36.166.60.17. For the purposes of sections 1029.8.36.166.60.14 to 1029.8.36.166.60.16, an amount of assistance is deemed to be repaid by a corporation or a partnership at a particular time, pursuant to a legal obligation, if that amount

(a) reduced, because of section 1029.8.36.166.60.13, the qualified expenditure or the share of a corporation that is a member of the partnership in such an expenditure, for the purpose of computing the amount that the corporation or the corporation that is a member of the partnership is deemed to have paid to the Minister for a taxation year under section 1029.8.36.166.60.8 or 1029.8.36.166.60.9;

(b) was not received by the corporation or partnership; and

(c) ceased at the particular time to be an amount that the corporation or partnership may reasonably expect to receive.

History: 2015, c. 21, s. 466.

Benefit or advantage.

1029.8.36.166.60.18. If, in respect of a qualified expenditure of a qualified corporation or of a qualified partnership, in respect of a qualified building, a person or a

partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the acquisition of the qualified building, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.60.8 by the qualified corporation, the amount of the qualified expenditure is to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation's filing-due date for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.60.9 by a qualified corporation that is a member of the qualified partnership, the corporation's share, for a fiscal period of the partnership that ends in the taxation year, of the amount of the qualified expenditure, is to be reduced

i. by the corporation's share, for the fiscal period, of the amount of the benefit or advantage that the person or partnership, other than a person referred to in subparagraph ii, has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of the benefit or advantage that the qualified corporation or a person with whom it does not deal at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period.

Member's share.

For the purposes of subparagraph i of subparagraph b of the first paragraph, the share, for a fiscal period of a qualified partnership, of a qualified corporation that is a member of the qualified partnership of the amount of the benefit or advantage that the partnership, or a person referred to in that subparagraph i, has obtained, is entitled to obtain or may reasonably expect to obtain, is equal to the agreed proportion of the amount in respect of the qualified corporation for the fiscal period.

History: 2015, c. 21, s. 466.

DIVISION II.6.14.2.2

CREDIT RELATING TO INFORMATION TECHNOLOGY INTEGRATION

§1. — Interpretation and general rules

Definitions:

1029.8.36.166.60.19. In this division,

“aluminum producing corporation”;

“aluminum producing corporation” for a taxation year means a corporation that, at any time in the year after 7 October 2013, carries on an aluminum producing business or is the owner or lessee of property used in the course of carrying on such a business by another corporation, a partnership or a trust, with which the corporation is associated;

“associated group”;

“associated group” has the meaning assigned by section 1029.8.36.166.60.24;

“eligible expenses”;

“eligible expenses” of a qualified corporation for a particular taxation year or of a qualified partnership for a particular fiscal period, in relation to an eligible information technology integration contract, means

(a) for a qualified corporation that has filed with Investissement Québec its application for a certificate in respect of the contract before 4 June 2014, the aggregate of the following amounts incurred after 7 October 2013 and before 1 January 2020:

i. if the corporation is a qualified manufacturing corporation for the particular taxation year, the cost of the contract that can reasonably be attributed to the activities specified in the certificate issued to the corporation in respect of the contract, other than an activity described in the second paragraph, that constitute, according to the certificate, the supply of a qualified management software package, provided the supply is intended to be used mainly in Québec in the course of a business carried on by the corporation in Québec, that is incurred by the corporation in the particular taxation year and that is paid in the particular year,

ii. the amount by which the cost referred to in subparagraph i that is incurred by the corporation in the particular taxation year or in a preceding taxation year for which the corporation is a qualified manufacturing corporation and that is paid after the end of the particular year or of the preceding year, as the case may be, but not later than 18 months after the end of that year, exceeds the portion of that cost that is included in the corporation's eligible expenses in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.60.27 for a taxation year preceding the particular year, and

iii. the cost referred to in subparagraph i that is incurred by the corporation and that is paid in the particular taxation year and before 1 July 2021, if it is paid more than 18 months after the end of the taxation year in which it was incurred and for which the corporation was a qualified manufacturing corporation;

(b) for a qualified partnership that has filed with Investissement Québec its application for a certificate in respect of the contract before 4 June 2014, the aggregate of the following amounts incurred after 7 October 2013 and before 1 January 2020:

i. if the partnership is a qualified manufacturing partnership for the particular fiscal period, the cost of the contract that can reasonably be attributed to the activities specified in the certificate issued to the partnership in respect of the contract, other than an activity described in the second paragraph, that constitute, according to the certificate, the supply of a qualified management software package, provided the supply is intended to be used mainly in Québec in the course of a business carried on by the partnership in Québec, that is incurred by the partnership in the particular fiscal period and that is paid in the particular fiscal period,

ii. the amount by which the cost referred to in subparagraph i that is incurred by the partnership in the particular fiscal period or in a preceding fiscal period for which the partnership is a qualified manufacturing partnership and that is paid after the end of the particular fiscal period or of the preceding fiscal period, as the case may be, but not later than 18 months after the end of that fiscal period, exceeds the portion of that cost that is included in the partnership's eligible expenses in respect of which a member of the partnership would be deemed to have paid an amount to the Minister under section 1029.8.36.166.60.28 for a taxation year preceding the year in which the particular fiscal period ends, if that section were read without reference to subparagraph b of its first paragraph and, in the case where the member was not a qualified corporation for that preceding taxation year, the member had been a qualified corporation for that preceding taxation year, and

iii. the cost referred to in subparagraph i that is incurred by the partnership and that is paid in the particular fiscal period and before 1 July 2021, if it is paid more than 18 months after the end of the fiscal period in which it was incurred and for which the partnership was a qualified manufacturing partnership;

(c) for a qualified corporation that has filed with Investissement Québec its application for a certificate in respect of the contract after 26 March 2015, the aggregate of the following amounts incurred after that date and before 1 January 2020:

i. if the corporation is a qualified manufacturing or primary sector corporation for the particular taxation year, the cost of the contract that can reasonably be attributed to the activities specified in the certificate issued to the corporation in respect

of the contract, other than an activity described in the second paragraph, that constitute, according to the certificate, the supply of a qualified management software package, provided the supply is intended to be used mainly in Québec in the course of a business carried on by the corporation in Québec, that is incurred by the corporation in the particular taxation year and that is paid in the particular year,

ii. the amount by which the cost referred to in subparagraph i that is incurred by the corporation in the particular taxation year or in a preceding taxation year for which the corporation is a qualified manufacturing or primary sector corporation, and that is paid after the end of the particular year or of the preceding year, as the case may be, but not later than 18 months after the end of that year, exceeds the portion of that cost that is included in the corporation's eligible expenses in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.60.27 for a taxation year preceding the particular year, and

iii. the cost referred to in subparagraph i that is incurred by the corporation and that is paid in the particular taxation year and before 1 July 2021, if it is paid more than 18 months after the end of the taxation year in which it was incurred and for which the corporation was a qualified manufacturing or primary sector corporation;

(d) for a qualified partnership that has filed with Investissement Québec its application for a certificate in respect of the contract after 26 March 2015, the aggregate of the following amounts incurred after that date and before 1 January 2020:

i. if the partnership is a qualified manufacturing or primary sector partnership for the particular fiscal period, the cost of the contract that can reasonably be attributed to the activities specified in the certificate issued to the partnership in respect of the contract, other than an activity described in the second paragraph, that constitute, according to the certificate, the supply of a qualified management software package, provided the supply is intended to be used mainly in Québec in the course of a business carried on by the partnership in Québec, that is incurred by the partnership in the particular fiscal period and that is paid in the particular fiscal period,

ii. the amount by which the cost referred to in subparagraph i that is incurred by the partnership in the particular fiscal period or in a preceding fiscal period for which the partnership is a qualified manufacturing or primary sector partnership, and that is paid after the end of the particular fiscal period or of the preceding fiscal period, as the case may be, but not later than 18 months after the end of that fiscal period, exceeds the portion of that cost that is included in the partnership's eligible expenses in respect of which a member of the partnership would be deemed to have paid an amount to the Minister under section 1029.8.36.166.60.28 for a taxation year preceding the year in which the particular fiscal period ends, if that section were

read without reference to subparagraph *b* of its first paragraph and, in the case where the member was not a qualified corporation for that preceding taxation year, the member had been a qualified corporation for that preceding taxation year, and

iii. the cost referred to in subparagraph *i* that is incurred by the partnership and that is paid in the particular fiscal period and before 1 July 2021, if it is paid more than 18 months after the end of the fiscal period in which it was incurred and for which the partnership was a qualified manufacturing or primary sector partnership;

(*e*) for a qualified corporation that has filed with Investissement Québec its application for a certificate in respect of the contract after 17 March 2016, the aggregate of the amounts incurred after that date and before 1 January 2020 to which any of subparagraphs *i* to *iii* of paragraph *c* would apply if those subparagraphs were read as if “qualified manufacturing or primary sector corporation” were replaced by “qualified manufacturing, primary sector or wholesale trade or retail trade sectors corporation”; and

(*f*) for a qualified partnership that has filed with Investissement Québec its application for a certificate in respect of the contract after 17 March 2016, the aggregate of the amounts incurred after that date and before 1 January 2020 to which any of subparagraphs *i* to *iii* of paragraph *d* would apply if those subparagraphs were read as if “qualified manufacturing or primary sector partnership” were replaced by “qualified manufacturing, primary sector or wholesale trade or retail trade sectors partnership”;

“eligible information technology integration contract”;

“eligible information technology integration contract” of a qualified corporation or a qualified partnership means a contract entered into by the corporation or partnership in respect of which a certificate has been issued by Investissement Québec for the purposes of this division;

“excluded corporation”;

“excluded corporation” for a taxation year means

(*a*) a corporation that is exempt from tax for the year under Book VIII;

(*b*) a corporation that would be exempt from tax for the year under section 985, but for section 192;

(*c*) an aluminum producing corporation for the year; or

(*d*) an oil refining corporation for the year;

“excluded partnership”;

“excluded partnership” for a fiscal period means a partnership that, at any time in the fiscal period after 7 October 2013, carries on an aluminum producing business or an oil refining business;

“manufacturing or processing salary or wages”;

“manufacturing or processing salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period has the meaning assigned by section 1029.8.36.166.40;

“oil refining corporation”;

“oil refining corporation” for a taxation year means a corporation that, at any time in the year after 7 October 2013, carries on an oil refining business or is the owner or lessee of property used in the course of carrying on such a business by another corporation, a partnership or a trust, with which the corporation is associated;

“primary sector activities”;

“primary sector activities” means the activities attributable to the activities in the agriculture, forestry, fishing and hunting sector and the activities in the mining, quarrying, and oil and gas extraction sector that are included, respectively, in the group described under code 11 or 21 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada;

“primary sector salary or wages”;

“primary sector salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period means the portion of the salary or wages in relation to the qualified corporation for the taxation year or the qualified partnership for the fiscal period that the aggregate of all amounts each of which is equal to the proportion of the gross revenue, referred to in the definition of “salary or wages” in the first paragraph of section 1029.8.36.166.40, of an employee of the corporation or partnership, as the case may be, that the employee’s working time spent on primary sector activities in the taxation year or fiscal period is of all the employee’s working time in the taxation year or fiscal period;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation, other than an excluded corporation for the year, that, in the year, carries on a business in Québec and has an establishment in Québec;

“qualified manufacturing corporation”;

“qualified manufacturing corporation” for a taxation year has the meaning assigned by the first paragraph of section 1029.8.36.166.40;

“qualified manufacturing or primary sector corporation”;

“qualified manufacturing or primary sector corporation” for a taxation year means a qualified corporation, for the year, in respect of which the proportion of the manufacturing or processing activities and primary sector activities that the aggregate of the manufacturing or processing salary or wages and the primary sector salary or wages in relation to the corporation for the taxation year is of the salary or wages in relation to the corporation for the taxation year, exceeds 50%;

“qualified manufacturing or primary sector partnership”;

“qualified manufacturing or primary sector partnership” for a fiscal period means a qualified partnership, for the fiscal period, in respect of which the proportion of the manufacturing or processing activities and primary sector activities that the aggregate of the manufacturing or processing salary or wages and the primary sector salary or wages in relation to the partnership for the fiscal period is of

the salary or wages in relation to the partnership for the fiscal period, exceeds 50%;

“qualified manufacturing partnership”;

“qualified manufacturing partnership” for a fiscal period has the meaning assigned by the first paragraph of section 1029.8.36.166.40;

“qualified manufacturing, primary sector or wholesale trade or retail trade sectors corporation”;

“qualified manufacturing, primary sector or wholesale trade or retail trade sectors corporation” for a taxation year means a qualified corporation, for the year, in respect of which the proportion of the manufacturing or processing activities, primary sector activities and wholesale trade and retail trade sectors activities that the aggregate of the manufacturing or processing salary or wages, the primary sector salary or wages and the wholesale trade and retail trade sectors salary or wages in relation to the corporation for the taxation year is of the salary or wages in relation to the corporation for the taxation year, exceeds 50%;

“qualified manufacturing, primary sector or wholesale trade or retail trade sectors partnership”;

“qualified manufacturing, primary sector or wholesale trade or retail trade sectors partnership” for a fiscal period means a qualified partnership, for the fiscal period, in respect of which the proportion of the manufacturing or processing activities, primary sector activities and wholesale trade and retail trade sectors activities that the aggregate of the manufacturing or processing salary or wages, the primary sector salary or wages and the wholesale trade and retail trade sectors salary or wages in relation to the partnership for the fiscal period is of the salary or wages in relation to the partnership for the fiscal period, exceeds 50%;

“qualified partnership”;

“qualified partnership” for a fiscal period means a partnership, other than an excluded partnership for the fiscal period, that, in the fiscal period, carries on a business in Québec and has an establishment in Québec;

“retail trade sector activities”;

“retail trade sector activities” means the activities attributable to the activities in the retail trade sector that are included in the group described under code 44-45 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada;

“salary or wages”;

“salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period has the meaning assigned by the first paragraph of section 1029.8.36.166.40;

“wholesale trade and retail trade sectors salary or wages”;

“wholesale trade and retail trade sectors salary or wages” in relation to a qualified corporation for a taxation year or a qualified partnership for a fiscal period means the portion of the salary or wages in relation to the qualified corporation for the taxation year or the qualified partnership for the fiscal period that the aggregate of all amounts each of which is

equal to the proportion of the gross revenue, referred to in the definition of “salary or wages” in the first paragraph of section 1029.8.36.166.40, of an employee of the corporation or partnership, as the case may be, that the employee’s working time spent on wholesale trade sector activities or retail trade sector activities in the taxation year or fiscal period is of all the employee’s working time in the taxation year or fiscal period;

“wholesale trade sector activities”.

“wholesale trade sector activities” means the activities attributable to the activities in the wholesale trade sector that are included in the group described under code 41 of the North American Industry Classification System (NAICS) Canada, as amended from time to time and published by Statistics Canada.

Eligible expenses — meaning of “activity”.

An activity to which the definition of “eligible expenses” in the first paragraph refers means an activity that is specified in a certificate issued to a corporation or a partnership, as the case may be, in respect of an eligible information technology integration contract and that can reasonably be attributed to general-purpose electronic data processing equipment and the related system software, including the ancillary data processing equipment, in respect of which the corporation or a member of the partnership may, for a taxation year, be deemed to have paid an amount to the Minister under Division II.6.14.2.

Working time.

For the purposes of the definitions of “wholesale trade and retail trade sectors salary or wages” and “primary sector salary or wages” in the first paragraph, an employee who spends 90% or more of working time on wholesale trade sector activities, retail trade sector activities or primary sector activities, as the case may be, is deemed to spend all working time thereon.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 124; 2017, c. 1, s. 293; 2019, c. 14, s. 362; 2020, c. 16, s. 154.

Balance of a corporation’s cumulative limit.

1029.8.36.166.60.20. For the purposes of this division, the balance of a qualified corporation’s cumulative limit for a particular taxation year is equal,

(a) if the qualified corporation is not associated with another corporation in the particular year, to the amount by which \$312,500 exceeds the amount by which the aggregate of all amounts each of which is the qualified corporation’s eligible expenses, in relation to an eligible information technology integration contract, for a taxation year preceding the particular year, or its share of a qualified partnership’s eligible expenses, in relation to an eligible information technology integration contract, for a fiscal period of the partnership that ends in a taxation year preceding the particular year, in respect of which an amount is deemed to

have been paid to the Minister by the corporation for the preceding year under section 1029.8.36.166.60.27 or 1029.8.36.166.60.28, as the case may be, exceeds the amount determined in accordance with the fourth paragraph; or

(b) if the qualified corporation is associated with one or more other corporations in the particular year, to the amount attributed for the particular year to the qualified corporation pursuant to the agreement described in the second paragraph and filed with the Minister in the prescribed form or, if no amount is attributed to the qualified corporation pursuant to that agreement or in the absence of such an agreement, to zero or to the amount attributed to it by the Minister, if applicable, for the particular year in accordance with this division.

Agreement.

The agreement to which subparagraph *b* of the first paragraph refers, in respect of a particular taxation year of the qualified corporation, is the agreement under which all the corporations that are associated with each other in the particular taxation year attribute, for the purposes of this section, to one or more of their number, one or more amounts the total of which is not greater than the amount by which \$312,500 exceeds the amount by which the aggregate of the following amounts exceeds the amount determined in accordance with the fifth paragraph, where each of those amounts is

(a) the eligible expenses of a corporation that is a member of the group of corporations associated with each other in the particular year, in relation to an eligible information technology integration contract, for a taxation year that ends before the beginning of the particular year, in respect of which an amount is deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.60.27; or

(b) the share of a corporation that is a member of the group of corporations associated with each other in the particular year, of the eligible expenses of a qualified partnership, in relation to an eligible information technology integration contract, for a fiscal period of the partnership that ends in a taxation year of the corporation that ends before the beginning of the particular year, in respect of which an amount is deemed to have been paid to the Minister by the corporation under section 1029.8.36.166.60.28.

Excess attribution.

If the aggregate of the amounts attributed, in respect of a taxation year, in an agreement described in the second paragraph and entered into with the corporations that are associated with each other in the year is greater than the first excess amount referred to in that paragraph, the amount determined under subparagraph *b* of the first paragraph in respect of each of those corporations for that taxation year is deemed, for the purposes of this section, to be equal to the proportion of that excess amount that that amount is of the

aggregate of the amounts attributed for that year in the agreement.

Computation of the cumulative limit balance.

The amount to which subparagraph *a* of the first paragraph refers is equal to the aggregate of all amounts each of which is the product obtained by multiplying a tax that the corporation is required to pay for the particular taxation year or a preceding taxation year under Part III.10.9.2.2 in relation to eligible expenses of the corporation or the corporation's share of the eligible expenses of a partnership of which the corporation is a member, in respect of which the corporation is deemed to have paid an amount to the Minister under this division for a taxation year preceding the particular year, by the reciprocal of the rate determined in respect of the corporation under section 1029.8.36.166.60.29 for that preceding taxation year.

Computation of the cumulative limit balance.

The amount to which the second paragraph refers is equal to the aggregate of all amounts each of which is the product obtained by multiplying a tax that a corporation that is a member of the group of associated corporations referred to in the second paragraph is required to pay for the particular taxation year or a preceding taxation year under Part III.10.9.2.2 in relation to eligible expenses of the corporation or the corporation's share of the eligible expenses of a partnership of which the corporation is a member, in respect of which the corporation is deemed to have paid an amount to the Minister under this division for a preceding taxation year, by the reciprocal of the rate determined in respect of the corporation under section 1029.8.36.166.60.29 for that preceding taxation year.

History: 2015, c. 21, s. 466.

Amount to be attributed.

1029.8.36.166.60.21. If a corporation associated with one or more other corporations in a taxation year fails to file with the Minister an agreement for the purposes of this division within 30 days after notice in writing by the Minister has been sent to any of the corporations so associated with each other that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, attribute for the taxation year an amount to one or more of the corporations so associated, which amount or the aggregate of which amounts must be equal to the first excess amount referred to in the second paragraph of section 1029.8.36.166.60.20 and determined for the year; in any such case, the balance of the cumulative limit of each of those corporations for the year is equal to the amount so attributed to it.

History: 2015, c. 21, s. 466.

Balance of a partnership's cumulative balance.

1029.8.36.166.60.22. For the purposes of this division, the balance of a qualified partnership's cumulative limit for a particular fiscal period is equal to the amount by which \$312,500 exceeds the aggregate of all amounts each of which is the amount by which the qualified partnership's eligible expenses, in relation to an eligible information technology integration contract, for a preceding fiscal period exceeds the amount of any government assistance, non-government assistance, benefit or advantage attributable to those expenses, that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period.

History: 2015, c. 21, s. 466.

Paid-up capital of a corporation.

1029.8.36.166.60.23. The paid-up capital of a corporation for a particular taxation year is equal,

(a) where the corporation is not a member of an associated group in the particular year, to its paid-up capital, determined in accordance with the second paragraph, for the taxation year preceding the particular year; and

(b) where the corporation is a member of an associated group in the particular year, to the aggregate of all amounts each of which is its paid-up capital, determined in accordance with the second paragraph, for the taxation year preceding the particular year, and the paid-up capital of each other member of the group, determined in accordance with the second paragraph, for its last taxation year that ended before the beginning of the particular year.

Computation of paid-up capital.

For the purposes of this section,

(a) the paid-up capital of a corporation for a taxation year is

i. in respect of a corporation, except a corporation that is an insurer within the meaning assigned by the Insurers Act (chapter A-32.1), its paid-up capital that would be determined for that year in accordance with Book III of Part IV if no reference were made to section 1138.2.6, and

ii. in respect of a corporation that is an insurer within the meaning assigned by the Insurers Act, its paid-up capital that would be determined for that year in accordance with Title II of Book III of Part IV if it were a bank and paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136;

(b) a business carried on by an individual who is a member of an associated group in a taxation year is deemed to be carried on by a corporation referred to in subparagraph i of subparagraph *a* and a partnership or a trust which is a member of an associated group in a taxation year is deemed to be a corporation referred to in subparagraph i of

subparagraph *a*, the paid-up capital of which is determined in accordance with Title I of Book III of Part IV but without reference to paragraph *b.1.2* of section 1137 and any participating interest of which in the nature of capital stock or surplus is deemed to be referred to in paragraph *a* or *b* of subsection 1 of section 1136; and

(c) the interest of a member of an associated group in a taxation year in another member of that group is deemed to be an investment in shares and bonds of another corporation.

First fiscal period.

For the purposes of subparagraph *a* of the first paragraph, where the particular year is the first fiscal period of the corporation, its paid-up capital is determined, in accordance with the second paragraph, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

First fiscal period.

For the purposes of subparagraph *b* of the first paragraph, where a member of the associated group, other than the corporation, has no taxation year ending before the beginning of the particular year, its paid-up capital is determined, in accordance with the second paragraph, on the basis of its financial statements prepared at the beginning of its first fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2015, c. 21, s. 466; 2018, c. 23, s. 811(2).

Associated group.

1029.8.36.166.60.24. An associated group in a taxation year means all the corporations that are associated with each other at any given time in the year.

Presumption.

For the purposes of the first paragraph, a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at that time by the individual.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 125.

Corporations deemed associated.

1029.8.36.166.60.25. If it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to

cause a qualified corporation to be deemed to have paid an amount to the Minister under this division for that year or to increase an amount that a qualified corporation is deemed to have paid to the Minister under this division for that year, those corporations are deemed, for the purposes of this division, to be associated with each other in the year.

History: 2015, c. 21, s. 466.

Share of a corporation member of a partnership.

1029.8.36.166.60.26. For the purposes of this division, a corporation's share of an amount, in relation to a partnership of which it is a member at the end of a fiscal period, is equal to the agreed proportion of that amount in respect of the corporation for the fiscal period.

History: 2015, c. 21, s. 466.

§2. — Credits

Credit.

1029.8.36.166.60.27. A qualified corporation for a taxation year that encloses the documents described in the fourth paragraph with the fiscal return it is required to file for the year under section 1000 is deemed, subject to the third paragraph, to have paid to the Minister on the qualified corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) an amount equal to the product obtained by multiplying 80% of the lesser of the following amounts by the rate determined in its respect for the year under section 1029.8.36.166.60.29:

i. the aggregate of all amounts each of which is the corporation's eligible expenses for the year, in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec before 4 June 2014, and

ii. the amount by which the balance of the corporation's cumulative limit for the year exceeds all or part of the aggregate described in subparagraph i of subparagraph b that the corporation elects to use for the purpose of determining the amount the corporation is deemed to have paid to the Minister for the year under this section; and

(b) an amount equal to the product obtained by multiplying 80% of the lesser of the following amounts by the rate determined in its respect for the year under section 1029.8.36.166.60.29:

i. the aggregate of all amounts each of which is the corporation's eligible expenses for the year, in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec after 26 March 2015, and

ii. the amount by which the balance of the corporation's cumulative limit for the year exceeds all or part of the aggregate described in subparagraph i of subparagraph a that the corporation elects to use for the purpose of determining the amount the corporation is deemed to have paid to the Minister for the year under this section.

Reduction of the balance of the cumulative limit.

For the purposes of subparagraph ii of subparagraphs a and b of the first paragraph, the balance of a qualified corporation's cumulative limit for a taxation year is to be reduced, if applicable, by the aggregate of the amounts described in subparagraph i of subparagraphs a and b of the first paragraph of section 1029.8.36.166.60.28, in respect of which the corporation is deemed to have paid an amount to the Minister for the year under that section.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph a of the first paragraph of section 1027 or any of sections 1159.7, 1175 and 1175.19 where those sections refer to that subparagraph a, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information;

(b) a copy of any valid certificate issued for the purposes of this division to the corporation in respect of an eligible information technology integration contract; and

(c) a copy of the agreement described in section 1029.8.36.166.60.20, if applicable.

History: 2015, c. 21, s. 466; 2017, c. 1, s. 294.

Credit.

1029.8.36.166.60.28. A qualified corporation for a taxation year that is a member of a qualified partnership at the end of a fiscal period of the qualified partnership that ends in the year and that encloses the documents described in the sixth paragraph with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph, to have paid to the Minister on the qualified corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) an amount equal to the product obtained by multiplying 80% of the lesser of the following amounts by the rate determined in its respect for the year under section 1029.8.36.166.60.29:

i. the aggregate of all amounts each of which is the corporation's share of such a qualified partnership's eligible expenses for such a fiscal period, in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec before 4 June 2014, and

ii. the amount by which the balance of the corporation's cumulative limit for the year exceeds all or part of the aggregate described in subparagraph i of subparagraph *b* that the corporation elects to use for the purpose of determining the amount the corporation is deemed to have paid to the Minister for the year under this section; and

(b) an amount equal to the product obtained by multiplying 80% of the lesser of the following amounts by the rate determined in its respect for the year under section 1029.8.36.166.60.29:

i. the aggregate of all amounts each of which is the corporation's share of such a qualified partnership's eligible expenses for such a fiscal period, in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec after 26 March 2015, and

ii. the amount by which the balance of the corporation's cumulative limit for the year exceeds all or part of the aggregate described in subparagraph i of subparagraph *a* that the corporation elects to use for the purpose of determining the amount the corporation is deemed to have paid to the Minister for the year under this section.

Limit on eligible expenses of a partnership.

For the purposes of subparagraph i of subparagraphs *a* and *b* of the first paragraph, the aggregate of all amounts each of which is a qualified partnership's eligible expenses for a fiscal period, in relation to an eligible information technology integration contract, that are referred to in either of those subparagraphs, may not exceed the balance of the partnership's cumulative limit for the fiscal period.

Reduction of the balance of the cumulative limit.

For the purposes of subparagraph ii of subparagraphs *a* and *b* of the first paragraph, the balance of a qualified corporation's cumulative limit for a taxation year is to be reduced, if applicable, by the aggregate of the amounts described in subparagraph i of subparagraphs *a* and *b* of the first paragraph of section 1029.8.36.166.60.27, in respect of which the corporation is deemed to have paid an amount to the Minister for the year under that section.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027 or any of sections 1159.7, 1175 and 1175.19 where those sections refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Eligible expenses of a partnership.

Despite the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.60.19 and for the purpose of applying this section to a qualified corporation referred to in the first paragraph, the eligible expenses for a particular fiscal period, in relation to an eligible information technology integration contract, of a qualified partnership of which the corporation is a member do not include

(a) the expenses that would otherwise be such expenses because of subparagraph ii of paragraph *b* or *d* or of paragraph *f* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.60.19 and that are incurred in a fiscal period of the partnership that precedes the particular fiscal period and ends in a taxation year for which the corporation was not a qualified corporation; or

(b) the expenses that would otherwise be such expenses because of subparagraph iii of paragraph *b* or *d* or of paragraph *f* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.166.60.19 and that are

incurred in a fiscal period of the partnership that ends in a taxation year for which the corporation was not a qualified corporation.

Documents to be filed.

The documents to which the first paragraph refers are the following:

- (a) the prescribed form containing prescribed information;
- (b) a copy of any valid certificate issued for the purposes of this division to a partnership in respect of an eligible information technology integration contract; and
- (c) a copy of the agreement described in section 1029.8.36.166.60.20, if applicable.

History: 2015, c. 21, s. 466; 2017, c. 1, s. 295.

Rate.

1029.8.36.166.60.29. The rate to which the first paragraph of sections 1029.8.36.166.60.27 and 1029.8.36.166.60.28 refers, in respect of a qualified corporation for a taxation year, means

(a) in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec before 4 June 2014, the rate determined by the formula

$$25\% - [25\% \times (A - \$15,000,000) / \$5,000,000]; \text{ or}$$

(b) in relation to an eligible information technology integration contract in respect of which the application for a certificate has been filed with Investissement Québec after 26 March 2015, the rate determined by the formula

$$20\% - [20\% \times (A - \$35,000,000) / \$15,000,000].$$

Interpretation.

In the formula in subparagraph *a* of the first paragraph, *A* is the greater of

- (a) \$15,000,000; and
- (b) the lesser of \$20,000,000 and the corporation's paid-up capital for the year, determined in accordance with section 1029.8.36.166.60.23.

Interpretation.

In the formula in subparagraph *b* of the first paragraph, *A* is the greater of

- (a) \$35,000,000; and

(b) the lesser of \$50,000,000 and the corporation's paid-up capital for the year, determined in accordance with section 1029.8.36.166.60.23.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 126; 2017, c. 1, s. 296.

§3. — *Government assistance, non-government assistance and other particulars*

Assistance.

1029.8.36.166.60.30. For the purpose of computing the amount that is deemed to have been paid to the Minister by a corporation, for a taxation year, under section 1029.8.36.166.60.27 or 1029.8.36.166.60.28, the following rules apply:

(a) the corporation's eligible expenses, referred to in subparagraph *i* of subparagraphs *a* and *b* of the first paragraph of section 1029.8.36.166.60.27, are to be reduced by the amount of any government assistance or non-government assistance attributable to the expenses that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation's filing-due date for the taxation year; and

(b) the corporation's share of the eligible expenses of a partnership, referred to in subparagraph *i* of subparagraphs *a* and *b* of the first paragraph of section 1029.8.36.166.60.28, for a fiscal period of the partnership that ends in the corporation's taxation year, is to be reduced

i. by the corporation's share of the amount of any government assistance or non-government assistance attributable to the expenses that the partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of any government assistance or non-government assistance attributable to the expenses that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period.

History: 2015, c. 21, s. 466; 2017, c. 1, s. 297.

Repayment of assistance by a corporation.

1029.8.36.166.60.31. If, before 1 January 2022, a corporation pays, in a taxation year (in this section referred to as the "repayment year"), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of paragraph *a* of section 1029.8.36.166.60.30, the corporation's eligible expenses, in relation to an eligible information technology integration contract, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.60.27 in respect of those expenses for

a particular taxation year, the corporation is deemed, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on its balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that the corporation would be deemed to have paid to the Minister in respect of the eligible expenses, under section 1029.8.36.166.60.27 for the particular year, if the particular amount that is the lesser of the aggregate of all amounts each of which is an amount of assistance so repaid at or before the end of the repayment year and the balance of the corporation's cumulative limit for the repayment year, had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in paragraph *a* of section 1029.8.36.166.60.30, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister in respect of the eligible expenses under section 1029.8.36.166.60.27 for the particular year; and

(b) any amount that the corporation is deemed to have paid to the Minister under this section for a taxation year preceding the repayment year in respect of an amount of repayment of that assistance.

Presumption.

The particular amount to which the first paragraph refers is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation's cumulative limit for the repayment year and a subsequent taxation year, to be eligible expenses of the corporation in respect of an eligible information technology integration contract for a taxation year preceding the repayment year.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 127.

Repayment of assistance by a partnership.

1029.8.36.166.60.32. If, before 1 January 2022, a partnership pays, in a fiscal period (in this section referred to as the "fiscal period of repayment"), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *i* of paragraph *b* of section 1029.8.36.166.60.30, a corporation's share of a partnership's eligible expenses, in relation to an eligible information technology integration contract, for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.60.28 in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if the corporation is a member of the partnership at the end of the

fiscal period of repayment and it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.28 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister in respect of the partnership's eligible expenses, in relation to an eligible information technology integration contract, under section 1029.8.36.166.60.28 for its taxation year in which the particular fiscal period ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) the lesser of the corporation's share of any amount of assistance repaid at or before the end of the fiscal period of repayment and the balance of the corporation's cumulative limit for its taxation year in which the fiscal period of repayment ended, reduced, for the particular fiscal period, the corporation's share of the amount of any government assistance or non-government assistance referred to in subparagraph *i* of paragraph *b* of section 1029.8.36.166.60.30; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Presumption.

The amount determined in accordance with subparagraph *a* of the second paragraph is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation's cumulative limit for the taxation year in which the fiscal period of repayment ends and a subsequent taxation year, to be the corporation's share of the partnership's eligible expenses, in relation to an eligible information technology integration contract, for a fiscal period of the partnership that ends in a taxation year of the

corporation preceding the taxation year in which the fiscal period of repayment ends.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 127.

Repayment of assistance by a member of a partnership.

1029.8.36.166.60.33. If, before 1 January 2022, a corporation is a member of a partnership at the end of a fiscal period of the partnership (in this section referred to as the “fiscal period of repayment”), and pays, in the fiscal period of repayment, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph ii of paragraph *b* of section 1029.8.36.166.60.30, its share of the partnership’s eligible expenses, in relation to an eligible information technology integration contract, for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.60.28, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation’s balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.28 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the share, under section 1029.8.36.166.60.28 for its taxation year in which the particular fiscal period ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amount to which the first paragraph refers is to be computed as if

(a) the lesser of any amount of assistance repaid at or before the end of the fiscal period of repayment and the balance of the corporation’s cumulative limit for its taxation year in

which the fiscal period of repayment ended, reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph ii of paragraph *b* of section 1029.8.36.166.60.30; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Presumption.

The amount determined in accordance with subparagraph *a* of the second paragraph is deemed, for the purpose of determining, other than for the purposes of this section, the balance of the corporation’s cumulative limit for the taxation year in which the fiscal period of repayment ends and a subsequent taxation year, to be the corporation’s share of the partnership’s eligible expenses, in relation to an eligible information technology integration contract, for a fiscal period of the partnership that ends in a taxation year of the corporation preceding the taxation year in which the fiscal period of repayment ends.

History: 2015, c. 21, s. 466; 2015, c. 36, s. 127.

Deemed repayment of assistance.

1029.8.36.166.60.34. For the purposes of sections 1029.8.36.166.60.31 to 1029.8.36.166.60.33, an amount of assistance is deemed to be repaid by a corporation or a partnership at a particular time, pursuant to a legal obligation, if that amount

(a) reduced, because of section 1029.8.36.166.60.30, the eligible expenses or the share of a corporation that is a member of the partnership in such expenses, for the purpose of computing the amount that the corporation or the corporation that is a member of the partnership is deemed to have paid to the Minister for a taxation year under section 1029.8.36.166.60.27 or 1029.8.36.166.60.28;

(b) was not received by the corporation or partnership; and

(c) ceased at the particular time to be an amount that the corporation or partnership may reasonably expect to receive.

History: 2015, c. 21, s. 466.

Benefit or advantage.

1029.8.36.166.60.35. If, in respect of the eligible expenses of a qualified corporation or a qualified partnership, in relation to an eligible information technology integration contract, a person or a partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to an eligible information technology integration contract, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair

market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.60.27 by the qualified corporation, the amount of the eligible expenses is to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation's filing-due date for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.166.60.28 by a qualified corporation that is a member of the qualified partnership, the corporation's share, for a fiscal period of the partnership that ends in the taxation year, of the amount of the eligible expenses, is to be reduced

i. by the corporation's share, for the fiscal period, of the amount of the benefit or advantage that the person or partnership, other than a person referred to in subparagraph ii, has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of the benefit or advantage that the qualified corporation or a person with whom it does not deal at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period.

History: 2015, c. 21, s. 466.

DIVISION II.6.14.3 **CREDIT FOR INTERNATIONAL FINANCIAL CENTRES**

Definitions:

1029.8.36.166.61. In this division,

“eligible contract”;

“eligible contract” of a corporation for all or part of a taxation year means a contract of the corporation in respect of which a certificate is issued to the corporation for the year by the Minister of Finance for the purposes of this division, according to which the contract is an eligible contract for all or part of the year;

“eligible employee”;

“eligible employee” of a corporation for all or part of a taxation year means an employee of the corporation in respect of whom a qualification certificate to the effect that the employee is an eligible employee for all or part of the year is issued to the corporation for the year by the Minister of Finance for the purposes of this division;

“qualified international financial transaction”;

“qualified international financial transaction” has the meaning assigned by section 2.1 of Schedule E to the Act

respecting the sectoral parameters of certain fiscal measures (chapter P-5.1);

“qualified wages”;

“qualified wages” incurred by a corporation in a taxation year in respect of an eligible employee for all or part of the taxation year means the lesser of

(a) the amount obtained by multiplying \$75,000 by the proportion that the number of days in the taxation year during which the employee qualifies as an eligible employee of the corporation is of 365; and

(b) the amount by which the amount of the wages incurred in the year by the corporation in respect of the employee, while the employee qualifies as an eligible employee of the corporation, to the extent that that amount is paid, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation's filing-due date for the taxation year, and

ii. the aggregate of all amounts each of which is the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the duties performed by the employee in the course of the operations of the business carried on by the corporation in the taxation year that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the corporation's filing-due date for that taxation year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

History: 2011, c. 1, s. 80; 2019, c. 14, s. 363.

Credit.

1029.8.36.166.62. A corporation operating an international financial centre in a taxation year that holds for that year a valid qualification certificate issued by the Minister of Finance for the purposes of this division and that encloses with the fiscal return it is required to file for the year under section 1000 the documents described in the third paragraph is deemed, subject to the second paragraph, to have paid to the Minister on the corporation's balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 24% of the aggregate of

(a) the aggregate of all amounts each of which is the qualified wages incurred by the corporation in the year in respect of an eligible employee for all or part of that year, where the qualification certificate issued in respect of that

employee is in relation to the carrying out of qualified international financial transactions; and

(b) the aggregate of all amounts each of which is 80% of the qualified wages incurred by the corporation in the year in respect of an eligible employee for all or part of that year, where the qualification certificate issued in respect of that employee is in relation to an eligible contract.

Computation of payments.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information;

(b) a copy of any qualification certificate that has been issued to the corporation for the taxation year by the Minister of Finance for the purposes of this division.

Election.

Despite the first paragraph, a corporation operating an international financial centre on 30 March 2010 may be deemed to have paid an amount to the Minister under this section for all or part of a taxation year preceding 1 January 2013 only if

(a) the corporation elects irrevocably in the manner and within the time specified in the fifth paragraph to avail itself, as of any time in the year, of this division in respect of all the international financial centres it operates on 30 March 2010; or

(b) the corporation makes an election under subparagraph *a* in respect of a preceding taxation year.

Filing requirement.

A corporation makes an election under subparagraph *a* of the fourth paragraph, in respect of a taxation year, by filing the prescribed form containing prescribed information with the Minister on or before the corporation's filing-due date for the year.

History: 2011, c. 1, s. 80; 2015, c. 21, s. 467; 2019, c. 14, s. 364.

Repayment of assistance.

1029.8.36.166.63. If a corporation pays in a taxation year (in this section referred to as the "repayment year"), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that was taken into account for the purpose of computing qualified wages incurred in a particular taxation year by the corporation in respect of an eligible employee and in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.62 for the particular taxation year, the corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on its balance due-day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year in respect of the qualified wages under section 1029.8.36.166.62 if any amount of assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount determined under subparagraph *i* of paragraph *b* of the definition of "qualified wages" in section 1029.8.36.166.61, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.62 for the particular year in respect of the qualified wages; and

(b) any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount of repayment of that assistance.

History: 2011, c. 1, s. 80.

Deemed repayment of assistance.

1029.8.36.166.64. For the purposes of section 1029.8.36.166.63, an amount of assistance is deemed to be repaid by a corporation in a taxation year, pursuant to a legal obligation, if that amount

(a) reduced, because of subparagraph *i* of paragraph *b* of the definition of "qualified wages" in section 1029.8.36.166.61, the amount of the wages referred to in that paragraph *b*, for the purpose of computing qualified wages in respect of

which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.62;

(b) was not received by the corporation; and

(c) ceased in the taxation year to be an amount that the corporation may reasonably expect to receive.

History: 2011, c. 1, s. 80.

DIVISION II.6.14.4 **CREDIT FOR THE HIRING OF EMPLOYEES BY** **NEW FINANCIAL SERVICES CORPORATIONS**

Definitions:

1029.8.36.166.65. In this division,

“eligibility period”;

“eligibility period” of a corporation for a taxation year means all of the taxation year for which a certificate has been issued to the corporation for the purposes of this division or, if applicable, the part of that year specified in the certificate;

“eligible employee”;

“eligible employee” of a corporation for all or part of a taxation year means an individual who meets the following conditions:

(1) the individual is an employee of the corporation; and

(2) the corporation obtains a certificate for the year in respect of the individual, for the purposes of this division, certifying that the employee is recognized as an eligible employee for that year or part of year;

“excluded corporation”;

“excluded corporation” for a taxation year means

(a) a corporation that is exempt from tax for the year under Book VIII;

(b) a corporation that would be exempt from tax for the year under section 985, but for section 192; or

(c) a corporation that carries on a personal services business in the year;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation, other than an excluded corporation, in respect of which all or part of the year is included in the period of validity specified in the qualification certificate it holds for the purposes of this division and that, in the year, carries on a business in Québec and has an establishment in Québec;

“qualified wages”;

“qualified wages” incurred by a corporation in a taxation year in respect of an eligible employee means the lesser of

(a) the amount obtained by multiplying \$100,000 by the proportion that the number of days in the taxation year during which the employee is recognized as an eligible employee of the corporation is of 365; and

(b) the amount by which the amount of the wages incurred by the corporation in its eligibility period for the taxation year in respect of the employee, while the employee is recognized as an eligible employee of the corporation, to the extent that that amount is paid, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation’s filing-due date for the taxation year, and

ii. the aggregate of all amounts each of which is the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the duties performed by the employee in the course of the operations of the business carried on by the corporation in the taxation year that a person or a partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the corporation’s filing-due date for that taxation year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

History: 2013, c. 10, s. 123; 2019, c. 14, s. 365.

Credit.

1029.8.36.166.66. A qualified corporation that holds, for a taxation year, a certificate issued by the Minister of Finance for the purposes of this division and that encloses with the fiscal return it is required to file for the year under section 1000 a copy of the certificate as well as the documents described in the third paragraph is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 24% of the aggregate of all amounts each of which is the qualified wages incurred by the corporation in the year and after 20 March 2012 in respect of an eligible employee.

Computation of payments.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the following documents:

i. the qualification certificate issued to the corporation by the Minister of Finance for the purposes of this division, and

ii. any certificate issued to the corporation by the Minister of Finance for the year for the purposes of this division, in relation to an eligible employee.

History: 2013, c. 10, s. 123; 2015, c. 21, s. 468.

Repayment of assistance.

1029.8.36.166.67. If a corporation pays in a taxation year (in this section referred to as the “repayment year”), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that was taken into account for the purpose of computing qualified wages incurred in a particular taxation year by the corporation in respect of an eligible employee and in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.66 for the particular taxation year, the corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on its balance due-day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year in respect of the qualified wages under section 1029.8.36.166.66 if any amount of assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount determined under subparagraph i of paragraph b of the definition of “qualified wages” in section 1029.8.36.166.65, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.166.66 for the particular year in respect of the qualified wages; and

(b) any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount of repayment of that assistance.

History: 2013, c. 10, s. 123.

Deemed repayment of assistance.

1029.8.36.166.68. For the purposes of section 1029.8.36.166.67, an amount of assistance is deemed to be repaid by a corporation in a taxation year, pursuant to a legal obligation, if that amount

(a) reduced, because of subparagraph i of paragraph b of the definition of “qualified wages” in section 1029.8.36.166.65, the amount of the wages referred to in that paragraph b, for the purpose of computing qualified wages in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.166.66;

(b) was not received by the corporation; and

(c) ceased in the taxation year to be an amount that the corporation may reasonably expect to receive.

History: 2013, c. 10, s. 123.

DIVISION II.6.14.5

CREDIT RELATING TO NEW FINANCIAL SERVICES CORPORATIONS

§1. — *Interpretation*

Definitions:

1029.8.36.166.69. In this division,

“*eligibility period*”;

“*eligibility period*” of a corporation for a taxation year means all of the taxation year for which a certificate has been issued to the corporation for the purposes of this division or, if applicable, the part of that year specified in the certificate;

“*eligible activities*”;

“*eligible activities*” of a corporation for a taxation year means the activities that the corporation carries on in the year and that are specified in the qualification certificate issued to it for the purposes of this division;

“*excluded corporation*”;

“*excluded corporation*” for a taxation year means

(a) a corporation that is exempt from tax for the year under Book VIII;

(b) a corporation that would be exempt from tax for the year under section 985, but for section 192; or

(c) a corporation that carries on a personal services business in the year;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation, other than an excluded corporation, in respect of which all or part of the year is included in the period of validity specified in the qualification certificate it holds for the purposes of this division and that, in the year, carries on a business in Québec and has an establishment in Québec;

“qualified expenditure”.

“qualified expenditure” of a corporation for a taxation year means the aggregate of all amounts each of which is an expenditure incurred by the corporation in the year, that is directly attributable to its eligible activities for the year carried on in an establishment of the corporation situated in Québec and is any of the following expenditures, provided it is wholly or partly attributable to its eligibility period for the year:

(a) the fees relating to the constitution of the initial regulatory file submitted to a recognized regulatory or self-regulatory organization of a financial market;

(b) the fees relating to the constitution of the initial file for participation in a stock exchange;

(c) the duties, dues and charges paid to a recognized regulatory or self-regulatory organization of a financial market;

(d) the duties and costs as a participant in a stock exchange;

(e) the connection and usage fees of an electronic trading solution for participation in a stock exchange;

(f) the subscription fees for a research or financial analysis tool or service.

(g) the fees relating to the constitution of a prospectus required by a recognized regulatory or self-regulatory organization of a financial market; or

(h) the fees paid to a compliance consultant to ensure compliance with the requirements of a recognized regulatory or self-regulatory organization of a financial market.

History: 2013, c. 10, s. 123; 2019, c. 14, s. 366; .

§2. — *Credit*

Credit.

1029.8.36.166.70. A qualified corporation that holds, for a taxation year, a valid certificate issued by the Minister of Finance for the purposes of this division and that encloses with the fiscal return it is required to file for the year under section 1000 a copy of the certificate as well as the documents described in the third paragraph is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 32% of the lesser of

(a) the corporation’s qualified expenditure for the year, to the extent that it is paid; and

(b) the corporation’s qualified expenditure limit for the year.

Computation of payments.

For the purpose of computing the payments that a corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Documents to be filed.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing prescribed information; and

(b) a copy of the following documents:

i. the qualification certificate issued to the corporation by the Minister of Finance for the purposes of this division, and

ii. the agreement referred to in section 1029.8.36.166.72, if applicable.

History: 2013, c. 10, s. 123; 2015, c. 21, s. 469.

Qualified expenditure limit.

1029.8.36.166.71. In this division, the qualified expenditure limit of a corporation for a taxation year is equal to

(a) if the corporation is not a member of an associated group in the year, \$375,000; or

(b) if the corporation is a member of an associated group in the year, an amount attributed for the year to the corporation pursuant to the agreement described in section

1029.8.36.166.72 and enclosed with the fiscal return the corporation is required to file for the year under section 1000 or, if no amount is attributed to the corporation under the agreement or in the absence of such an agreement, zero.

Associated group.

For the purposes of this section and sections 1029.8.36.166.72 to 1029.8.36.166.74, an associated group in a taxation year means all the corporations that are associated with each other in the year and are qualified corporations for the year.

History: 2013, c. 10, s. 123.

Agreement.

1029.8.36.166.72. The agreement to which subparagraph *b* of the first paragraph of section 1029.8.36.166.71 refers is the agreement under which all the qualified corporations that are members of the associated group in the year attribute for the year, in the prescribed form, to one or more of their number, for the purposes of this division, one or more amounts the total of which does not exceed \$375,000.

Over-attribution.

If the aggregate of the amounts attributed, in respect of a taxation year, pursuant to an agreement described in the first paragraph and entered into by the qualified corporations that are members of an associated group in the year exceeds \$375,000, the amount determined under subparagraph *b* of the first paragraph of section 1029.8.36.166.71 in respect of each of those corporations for the taxation year is deemed, for the purposes of this division, to be equal to the proportion of \$375,000 that that determined amount is of the aggregate of the amounts attributed for the year under the agreement.

History: 2013, c. 10, s. 123.

Attribution of the qualified expenditure limit by the Minister.

1029.8.36.166.73. If a qualified corporation that is a member of an associated group referred to in subparagraph *b* of the first paragraph of section 1029.8.36.166.71 fails to file with the Minister an agreement described in that subparagraph within 30 days after notice in writing by the Minister has been sent to any of the corporations that are members of that group that such an agreement is required for the purposes of any assessment of tax under this Part or for the determination of another amount, the Minister shall, for the purposes of this division, attribute an amount to one or more of those corporations for the taxation year, which amount or the aggregate of which amounts must be equal to \$375,000, and in such a case, despite that subparagraph *b*, the qualified expenditure limit for the year of each of the corporations is equal to the amount so attributed to it.

History: 2013, c. 10, s. 123.

Determination of the qualified expenditure limit in certain cases.

1029.8.36.166.74. Despite sections 1029.8.36.166.71 to 1029.8.36.166.73, the following rules apply:

(a) if a corporation that is a member of an associated group (in this paragraph referred to as the “first corporation”) has more than one taxation year ending in the same calendar year and is associated in two or more of those taxation years with another corporation that is a member of the group that has a taxation year ending in that calendar year, the qualified expenditure limit of the first corporation for each particular taxation year that ends in the calendar year in which it is associated with the other corporation and that ends after the first taxation year ending in that calendar year is, subject to paragraph *b*, an amount equal to the lesser of

- i. its qualified expenditure limit for the first taxation year ending in the calendar year, determined without reference to this section, and
- ii. its qualified expenditure limit for the particular taxation year ending in the calendar year, determined without reference to this section;

(b) if a corporation has a taxation year of fewer than 51 weeks, except in cases where paragraph *c* applies, the qualified expenditure limit of the corporation for the year is equal to that proportion of its qualified expenditure limit for the year, determined without reference to this paragraph, that the number of days in the year is of 365; and

(c) if the eligibility period of a corporation for a taxation year corresponds to a part of the taxation year, the qualified expenditure limit of the corporation for the year is equal to that proportion of its qualified expenditure limit for the year, determined without reference to this paragraph, that the number of days in that period is of the number of days in the taxation year.

History: 2013, c. 10, s. 123.

Corporations deemed associated.

1029.8.36.166.75. Where it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to cause a qualified corporation to be deemed to have paid an amount to the Minister under this division for that year or to increase an amount that a qualified corporation is deemed to have paid to the Minister under this division for that year, those corporations are deemed, for the purposes of this division, to be associated with each other in the year.

History: 2013, c. 10, s. 123.

§3. — *Government assistance, non-government assistance and other particulars*

Qualified expenditure reduced by assistance.

1029.8.36.166.76. For the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by a corporation under section 1029.8.36.166.70, the amount of the qualified expenditure of the corporation referred to in subparagraph *a* of the first paragraph of that section is to be reduced, if applicable, by the amount of any government assistance or non-government assistance, attributable to that expenditure, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation's filing-due date for that taxation year.

History: 2013, c. 10, s. 123.

Benefit or advantage.

1029.8.36.166.77. If, in respect of a qualified expenditure of a qualified corporation, a person or a partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the qualified expenditure, whether in the form of a repayment, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, the amount of the qualified expenditure of the qualified corporation for a taxation year is, for the purpose of computing the amount that is deemed to have been paid to the Minister for that year by the qualified corporation under section 1029.8.36.166.70, to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation's filing-due date for the taxation year.

History: 2013, c. 10, s. 123.

Repayment of assistance.

1029.8.36.166.78. If a corporation pays, in a taxation year (in this section referred to as the "repayment year"), pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that was taken into consideration for the purpose of computing the qualified expenditure of the corporation for a particular taxation year in respect of which it is deemed to have paid an amount to the Minister under section 1029.8.36.166.70 for the particular year, the corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on its balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year, in respect of the qualified expenditure, under section 1029.8.36.166.70 if

any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in section 1029.8.36.166.76, exceeds the aggregate of

(a) the amount that it is deemed to have paid to the Minister under section 1029.8.36.166.70 for the particular year in respect of the qualified expenditure; and

(b) any amount that it is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount of repayment of that assistance.

History: 2013, c. 10, s. 123.

Deemed repayment of assistance.

1029.8.36.166.79. For the purposes of section 1029.8.36.166.78, an amount of assistance is deemed to be repaid by a corporation at a particular time, pursuant to a legal obligation, if that amount

(a) reduced, because of section 1029.8.36.166.76, a qualified expenditure for the purpose of computing the amount that the corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.166.70;

(b) was not received by the corporation; and

(c) ceased at the particular time to be an amount that the corporation could reasonably expect to receive.

History: 2013, c. 10, s. 123.

DIVISION II.6.15

CREDIT RELATING TO MINING, PETROLEUM, GAS OR OTHER RESOURCES

§1. — *Interpretation and general*

Definitions:

1029.8.36.167. In this division,

"associated group";

"associated group" in a taxation year has the meaning assigned by section 1029.8.36.167.1;

"Canadian renewable and conservation expense in Canada";

"Canadian renewable and conservation expense in Canada" has the meaning assigned by section 399.7;

"eligible expenses";

"eligible expenses" of a corporation for a taxation year or of a partnership for a fiscal period means expenses incurred, after 29 March 2001, by the corporation in the taxation year or by the partnership in the fiscal period and that consist of

(a) any Canadian exploration expense, other than those described in paragraph *a.1*, that would be described in any of

paragraphs *a*, *b.1* and *c* of section 395 if the reference therein to “Canada”, wherever it appears, except in subparagraph iv of paragraph *b.1*, were a reference to “Québec, but outside the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*a.1*) any Canadian exploration expense incurred after 20 August 2002 but before 1 January 2008 and that would be described in paragraph *c* of section 395 if the reference therein to “Canada” were a reference to “Québec, but outside the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*b*) any Canadian development expense that would be described in paragraph *a* or *a.1* of section 408 if the reference therein to “Canada” and “Canada,” wherever they appear, were a reference to “Québec, but outside the northern exploration zone,” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*c*) any Canadian exploration expense, other than those described in paragraph *c.1*, that would be described in paragraph *a* or *b.1* of section 395 if the reference therein to “in Canada”, wherever it appears, except in subparagraph iv of paragraph *b.1*, were a reference to “in the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*c.0.1*) any Canadian exploration expense incurred after 17 March 2016 that would be described in paragraph *c* of section 395 if the reference therein to “in Canada”, wherever it appears, were a reference to “in the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*c.1*) any Canadian exploration expense incurred after 20 August 2002 but before 1 January 2008 and that would be described in paragraph *c* of section 395 if the reference therein to “in Canada” were a reference to “in the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*d*) any Canadian development expense that would be described in paragraph *a* or *a.1* of section 408 if the reference therein to “in Canada”, wherever it appears, were a reference to “in the northern exploration zone” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

(*e*) any Canadian renewable and conservation expense, to the extent that it is incurred in respect of work carried out by the corporation or partnership in Québec under a project

related to a business carried on by the corporation or partnership in Québec;

(*f*) any Canadian exploration expense that would be described in paragraph *c* of section 395 if the reference therein to “mineral resource in Canada,” were a reference to “natural resource in Québec, that is granite, sandstone, limestone, marble or slate, to the extent that the resources are used for the production of dimension stones, cemetery monuments, building stones, paving stones, curbing and roof tiles,” and if, where the expense is incurred by the partnership, the partnership were deemed to be a taxpayer whose taxation year is the partnership’s fiscal period;

“northern exploration zone”;

“northern exploration zone” has the meaning assigned by section 726.4.17.18;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation that, in the year, carries on a business in Québec and has an establishment in Québec, other than a corporation

(*a*) that is exempt from tax for the year under Book VIII; or

(*b*) that would be exempt from tax for the year under section 985, but for section 192;

“qualified partnership”;

“qualified partnership” for a fiscal period means a partnership that, in the fiscal period, carries on a business in Québec and has an establishment in Québec;

“total taxes”;

“total taxes” of a corporation for a taxation year means the aggregate of

(*a*) its tax payable for the year under this Part; and

(*b*) its tax that would be payable for the year under Part IV if that tax were computed without reference to sections 1135.1 and 1135.2;

“unused portion of the refundable tax credit”.

“unused portion of the refundable tax credit” of a corporation for a taxation year means the amount by which the total amount that the corporation would be deemed to have paid to the Minister for that year under subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.168 to 1029.8.36.171 if the second paragraph of sections 1029.8.36.168 and 1029.8.36.169 and the third paragraph of sections 1029.8.36.170 and 1029.8.36.171 were not taken into account exceeds the amount by which its total taxes for the year exceeds the amount it is deemed to have paid to the Minister for that year under section 1029.8.36.171.1.

Eligible expenses.

The expenses referred to in the definition of “eligible expenses” in the first paragraph do not include

(*a*) an amount included in the Canadian exploration and development overhead expense of a taxpayer, within the

meaning of section 360R2 of the Regulation respecting the Taxation Act (chapter I-3, r. 1);

(b) an amount relating to Canadian exploration expense or Canadian development expense renounced by a corporation in respect of a share under this Act; and

(c) an amount relating to financing, including expenses incurred before the beginning of the carrying on of a business.

History: 2002, c. 40, s. 209; 2003, c. 8, s. 6; 2004, c. 21, s. 424; 2005, c. 1, s. 249; 2005, c. 38, s. 275; 2009, c. 15, s. 304; 2015, c. 21, s. 470; 2017, c. 1, s. 298.

Associated group.

1029.8.36.167.1. An associated group in a taxation year means all the corporations that are associated with each other at any given time in the year.

Presumption.

For the purposes of the first paragraph, the following rules apply:

(a) a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at the given time by the individual;

(b) a partnership is deemed to be a corporation whose taxation year corresponds to the partnership's fiscal period and all the voting shares in the capital stock of which are owned at the given time by each member of the partnership in a proportion equal to the agreed proportion in respect of the member for the partnership's fiscal period that includes that time; and

(c) a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries (in this subparagraph *c* referred to as the "distribution date") and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if such a beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if the given time occurs before the distribution date, are owned at that time by the beneficiary, or

(2) if subparagraph 1 does not apply and the given time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of

the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. if a beneficiary's share of the accumulating income or of the capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at the given time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at the given time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at the given time by the person referred to in that section from whom property of the trust or property for which property of the trust was substituted was directly or indirectly received.

History: 2015, c. 21, s. 471.

§2. — Credits

Qualified corporation.

1029.8.36.168. A qualified corporation for a taxation year, other than such a corporation referred to in the second paragraph of section 1029.8.36.170, that encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the third paragraph, to have paid to the Minister on the corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) 12% of the eligible expenses of the corporation for the year that constitute such expenses by reason of any of paragraphs *a* to *b* and *f* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b) 15% of the eligible expenses of the corporation for the year that constitute such expenses by reason of any of paragraphs *c*, *c.1* and *d* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b.1) 18.75% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *c.0.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c) 24% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *e*

of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(d) subject to the second paragraph, 30% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *a.1* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid; and

(e) subject to the second paragraph, 26.25% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *c.1* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid.

Limit.

The total amount that the qualified corporation is deemed to have paid to the Minister for the year under subparagraphs *d* and *e* of the first paragraph and subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.169 and 1029.8.36.171 shall not exceed the amount by which its total taxes for the year exceed the amount it is deemed to have paid to the Minister for the year under section 1029.8.36.171.1.

Computation of payments.

For the purpose of computing the payments that a qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2002, c. 40, s. 209; 2003, c. 9, s. 341; 2004, c. 21, s. 425; 2015, c. 21, s. 472; 2017, c. 1, s. 299.

Qualified partnership.

1029.8.36.169. A qualified corporation for a taxation year that is a member of a qualified partnership, other than such a partnership referred to in the second paragraph of section 1029.8.36.171, at the end of a particular fiscal period of the partnership that ends in the year, and that encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the third paragraph, to have paid to the Minister on the qualified corporation’s balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) 12% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of any of paragraphs *a* to *b* and *f* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b) 15% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of any of paragraphs *c*, *c.1* and *d* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b.1) 18.75% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *c.0.1* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c) 24% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *e* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(d) subject to the second paragraph, 30% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *a.1* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid; and

(e) subject to the second paragraph, 26.25% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *c.1* of the definition of “eligible expenses” in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid.

Limit.

The total amount that the qualified corporation is deemed to have paid to the Minister for the year under subparagraphs *d*

and *e* of the first paragraph and subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.168, 1029.8.36.170 and 1029.8.36.171 shall not exceed the amount by which its total taxes for the year exceed the amount it is deemed to have paid to the Minister for the year under section 1029.8.36.171.1.

Computation of payments.

For the purpose of computing the payments that the qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for the qualified corporation's taxation year in which the particular fiscal period of the qualified partnership ends, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Qualified corporation's share.

For the purposes of the first paragraph, a qualified corporation's share of an amount for a fiscal period of a qualified partnership is equal to the agreed proportion of the amount in respect of the qualified corporation for the partnership's fiscal period.

History: 2002, c. 40, s. 209; 2003, c. 9, s. 342; 2004, c. 21, s. 426; 2009, c. 15, s. 305; 2015, c. 21, s. 473; 2017, c. 1, s. 300.

Qualified corporation that does not operate a mineral resource or an oil or gas well.

1029.8.36.170. A qualified corporation for a taxation year that is described in the second paragraph and that encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph, to have paid to the Minister on the corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) 12% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *f* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b) 28% of the eligible expenses of the corporation for the year that constitute such expenses by reason of any of paragraphs *a* to *b* and *e* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c) 31% of the eligible expenses of the corporation for the year that constitute such expenses by reason of any of paragraphs *c*, *c.1* and *d* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c.1) 38.75% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *c.0.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(d) subject to the third paragraph, 10% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *a.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid; and

(e) subject to the third paragraph, 6.25% of the eligible expenses of the corporation for the year that constitute such expenses by reason of paragraph *c.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid.

Qualified corporation.

The qualified corporation for a taxation year to which the first paragraph refers is a corporation that does not operate a mineral resource or an oil or gas well and that is not, in the year, a member of an associated group a member of which operates a mineral resource or an oil or gas well.

Limit.

The total amount that the qualified corporation is deemed to have paid to the Minister for the year under subparagraphs *d* and *e* of the first paragraph and subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.169 and 1029.8.36.171 shall not exceed the amount by which its total taxes for the year exceed the amount it is deemed to have paid to the Minister for the year under section 1029.8.36.171.1.

Computation of payments.

For the purpose of computing the payments that a qualified corporation is required to make under subparagraph *a* of the

first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Operation carried out in reasonable commercial quantities.

For the purposes of this section, the operation of a mineral resource or an oil or gas well shall be interpreted as such an operation carried out in reasonable commercial quantities.

History: 2002, c. 40, s. 209; 2003, c. 9, s. 343; 2004, c. 21, s. 427; 2005, c. 23, s. 224; 2015, c. 21, s. 474; 2017, c. 1, s. 301.

Qualified partnership that does not operate a mineral resource or an oil or gas well.

1029.8.36.171. A qualified corporation for a taxation year that is a member of a qualified partnership described in the second paragraph at the end of a particular fiscal period of the qualified partnership that ends in the year, and that encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph, to have paid to the Minister on the corporation's balance-due day for the year, on account of its tax payable for the year under this Part, an amount equal to the aggregate of

(a) 12% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *f* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(b) 28% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of any of paragraphs *a* to *b* and *e* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c) 31% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of any of paragraphs *c*, *c.1* and *d* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(c.1) 38.75% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *c.0.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid;

(d) subject to the third paragraph, 10% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *a.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid; and

(e) subject to the third paragraph, 6.25% of its share of the eligible expenses of the partnership for the particular fiscal period that constitute such expenses by reason of paragraph *c.1* of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, to the extent that the expenses are paid.

Qualified partnership.

The qualified partnership to which the first paragraph refers is a partnership that does not operate a mineral resource or an oil or gas well and no member of which operates, or is, in the taxation year of the qualified partnership referred to in that paragraph, a member of an associated group one of whose members operates, a mineral resource or an oil or gas well.

Limit.

The total amount that the qualified corporation is deemed to have paid to the Minister for the year under subparagraphs *d* and *e* of the first paragraph and subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.168 to 1029.8.36.170 shall not exceed the amount by which its total taxes for the year exceed the amount it is deemed to have paid to the Minister for the year under section 1029.8.36.171.1.

Computation of payments.

For the purpose of computing the payments that the qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for the qualified corporation's taxation year in which the particular fiscal period of the qualified partnership ends, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Rules applicable.

For the purposes of this section, the following rules apply:

(a) the operation of a mineral resource or an oil or gas well shall be interpreted as such an operation carried out in reasonable commercial quantities; and

(b) a qualified corporation's share of an amount for a fiscal period of a qualified partnership is equal to the agreed proportion of the amount in respect of the qualified corporation for the partnership's fiscal period.

History: 2002, c. 40, s. 209; 2003, c. 9, s. 344; 2004, c. 21, s. 428; 2005, c. 23, s. 225; 2009, c. 15, s. 306; 2015, c. 21, s. 475; 2017, c. 1, s. 302.

Credit relating to an unused portion for a preceding year.

1029.8.36.171.1. Subject to section 1029.8.36.171.3, a corporation that, for a particular taxation year ending after 20 August 2002, encloses the prescribed form containing the prescribed information with the fiscal return the corporation is required to file under section 1000 for the particular year, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation's balance-due day for the particular year, on account of its tax payable for that year under this Part, an amount equal to the aggregate of all amounts each of which is the lesser of

(a) the amount by which the unused portion of the refundable tax credit of the corporation for a taxation year, in subparagraph *b* referred to as the "original year", that is any of the ten taxation years that precede the particular year, exceeds the aggregate of all amounts each of which is an amount deemed to have been paid to the Minister by the corporation under this section or section 1029.8.36.171.2, in respect of the unused portion, on account of its tax payable for a taxation year preceding the particular year; and

(b) the amount by which the total taxes of the corporation for the particular year exceeds the aggregate of all amounts each of which is equal to the amount deemed to be paid by the corporation under this section, for the particular year, in respect of the unused portion of the refundable tax credit of

the corporation for a taxation year preceding the original year.

Computation of payments.

For the purpose of computing the payments that a qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027 or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2004, c. 21, s. 429; 2005, c. 23, s. 226.

Credit relating to an unused portion for a subsequent year.

1029.8.36.171.2. Subject to section 1029.8.36.171.4, a corporation is deemed, for a particular taxation year ending after 20 August 2002, if it encloses the prescribed form containing the prescribed information with the fiscal return it is required to file under section 1000 for a taxation year, in this section referred to as the "subsequent year", that is any of the three taxation years that follow the particular year, to have paid to the Minister for the particular year on the corporation's balance-due day for the subsequent year, in relation to the unused portion of the refundable tax credit of the corporation for the subsequent year, an amount equal to the lesser of

(a) the amount by which the unused portion of the refundable tax credit of the corporation for the subsequent year exceeds the aggregate of all amounts each of which is an amount deemed to have been paid to the Minister by the corporation under this section, in respect of the unused portion, for a taxation year preceding the particular year; and

(b) the amount by which the total taxes of the corporation for the particular year exceeds the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister for the particular year under subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.168 to 1029.8.36.171 or

section 1029.8.36.171.1, or under this section in respect of the unused portion of the refundable tax credit of the corporation for a taxation year preceding the subsequent year.

History: 2004, c. 21, s. 429.

Acquisition of control.

1029.8.36.171.3. Where, at any time, control of a corporation is acquired by a person or group of persons, no amount may, for a taxation year ending after that time, be deemed, under section 1029.8.36.171.1, to have been paid to the Minister by the corporation in respect of the unused portion of the refundable tax credit of the corporation for a taxation year ending before that time.

Continuation of the carrying on of a business.

However, the corporation may be deemed to have paid an amount to the Minister, for a particular taxation year ending after that time, in respect of the portion of an unused portion of the refundable tax credit for a taxation year ending before that time that may reasonably be considered to be attributable to the carrying on of a business, if the corporation carried on the business throughout the particular year for profit or with a reasonable expectation of profit.

Rule relating to total taxes.

The amount that the corporation may be deemed to have paid to the Minister for the particular year under section 1029.8.36.171.1 in respect of the portion referred to in the second paragraph must be determined as if the reference to the total taxes in that section were a reference to the portion of the total taxes of the corporation for the particular year that may reasonably be attributed to the carrying on of that business and, where the corporation sold, leased, rented or developed properties or rendered services in the course of carrying on that business before that time, of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2004, c. 21, s. 429.

Acquisition of control.

1029.8.36.171.4. Where, at any time, control of a corporation is acquired by a person or group of persons, no amount may, for a taxation year ending before that time, be deemed, under section 1029.8.36.171.2, to have been paid to the Minister by the corporation in respect of the unused portion of the refundable tax credit of the corporation for a taxation year ending after that time.

Continuation of the carrying on of a business.

However, the corporation may be deemed to have paid an amount to the Minister, for a particular taxation year ending before that time, in respect of the portion of an unused

portion of the refundable tax credit for a taxation year ending after that time that may reasonably be considered to be attributable to the carrying on of a business, if the corporation carried on the business throughout the taxation year and in the particular year for profit or with a reasonable expectation of profit.

Rule relating to total taxes.

The amount that the corporation may be deemed to have paid to the Minister for the particular year under section 1029.8.36.171.2 in respect of the portion referred to in the second paragraph must be determined as if the reference to the total taxes in that section were a reference to the portion of the total taxes of the corporation for the particular year that may reasonably be attributed to the carrying on of that business and, where the corporation sold, leased, rented or developed properties or rendered services in the course of carrying on that business before that time, of any other business substantially all the income of which is derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 2004, c. 21, s. 429; 2007, c. 12, s. 192.

§3. — *Government assistance, non-government assistance and other particulars*

Eligible expenses reduced by assistance.

1029.8.36.172. For the purpose of computing the amount that is deemed to have been paid to the Minister by a qualified corporation, for a taxation year, under any of sections 1029.8.36.168 to 1029.8.36.171, the following rules apply:

(a) the amount of the eligible expenses referred to in any of subparagraphs *a* to *e* of the first paragraph of section 1029.8.36.168 or 1029.8.36.170, as the case may be, shall be reduced, where applicable, by the amount of any government assistance or non-government assistance attributable to the expenses that the qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for the year;

(b) the corporation's share of the eligible expenses of a qualified partnership, referred to in any of subparagraphs *a* to *e* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for a fiscal period of the partnership that ends in the taxation year, shall be reduced, where applicable,

i. by the corporation's share, for the fiscal period, of any amount of government assistance or non-government assistance attributable to the expenses that the partnership has received, is entitled to receive or may reasonably expect to receive, on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of any government assistance or non-government assistance attributable to the expenses that the qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before the day that is six months after the end of the fiscal period.

Qualified corporation's share.

For the purposes of subparagraph i of subparagraph *b* of the first paragraph, a qualified corporation's share of an amount for a fiscal period of a qualified partnership is equal to the agreed proportion of the amount in respect of the qualified corporation for the partnership's fiscal period.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 430; 2007, c. 12, s. 193; 2009, c. 15, s. 307.

Reduction of the unused portion of the refundable tax credit.

1029.8.36.172.1. For the purpose of computing the amount that a corporation is deemed to have paid to the Minister under section 1029.8.36.171.1 for a particular taxation year in respect of the unused portion of the refundable tax credit of the corporation for a particular preceding taxation year, in relation to eligible expenses incurred by the corporation or a partnership of which it is a member at the end of the fiscal period of the partnership ending in the particular preceding year, the unused portion of the refundable tax credit of the corporation, otherwise determined, shall be reduced by the amount determined under the second paragraph where

(a) in the particular year or a preceding taxation year, an amount relating to the eligible expenses of the corporation, other than an amount reducing those expenses in accordance with section 1029.8.36.172 or 1029.8.36.177, is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or

(b) in a fiscal period of the partnership ending in the particular year or in a preceding taxation year and at the end of which the corporation is a member of the partnership, an amount relating to the eligible expenses of the partnership, other than an amount reducing those expenses in accordance with section 1029.8.36.172 or 1029.8.36.177, is, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

Amount of the reduction.

The amount to which the first paragraph refers is the amount by which the unused portion of the refundable tax credit of the corporation for the particular preceding year, otherwise determined, exceeds the amount that would be the amount of the unused portion of the refundable tax credit of the corporation if

(a) any amount referred to in subparagraph *a* or *b* of the first paragraph that is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made

by the corporation were directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation in the particular preceding year; and

(b) any amount referred to in subparagraph *b* of the first paragraph that is, directly or indirectly, refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership were directly or indirectly, refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership in the fiscal period of the partnership ending in the particular preceding year.

Amount deemed paid.

If, in respect of the eligible expenses referred to in the first paragraph, a person other than the corporation, or a partnership other than the partnership of which the corporation is a member, has obtained, at a particular time after 21 April 2005, a benefit or advantage that would have reduced those expenses in accordance with section 1029.8.36.177 if the person or partnership had obtained it, had been entitled to obtain it or could reasonably have expected to obtain it on or before the corporation's filing-due date for the particular preceding taxation year, or on or before the day that is six months after the end of the fiscal period of the partnership of which the corporation is a member that ended in the particular preceding taxation year, the benefit or advantage is, for the purposes of the first and second paragraphs,

(a) if those expenses were incurred by the corporation, deemed to be an amount that is paid to the corporation at that time; or

(b) if those expenses were incurred by the partnership of which the corporation is a member, deemed to be

i. an amount that is paid to that partnership at that time, when that benefit or advantage has been obtained by another partnership or by a person other than the person referred to in subparagraph ii, or

ii. an amount that is paid to the corporation at that time, when that benefit or advantage has been obtained by a person with whom the corporation does not deal at arm's length.

History: 2004, c. 21, s. 431; 2007, c. 12, s. 194; 2010, c. 5, s. 160.

Repayment of assistance by a corporation.

1029.8.36.173. Where a corporation pays, in a taxation year, in this section referred to as the "repayment year", pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *a* of the first paragraph of section 1029.8.36.172, eligible expenses of the corporation, for the purpose of computing the amount that it is deemed to have paid to the Minister under section 1029.8.36.168 or

1029.8.36.170 in respect of the expenses, for a particular taxation year, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for the repayment year, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the repayment year under section 1000, an amount equal to the aggregate of

(a) the amount by which the amount that it would be deemed to have paid to the Minister for the particular year, in respect of the expenses, under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.168 or 1029.8.36.170, as the case may be, if any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.172, exceeds the aggregate of

i. the amount that the corporation is deemed to have paid to the Minister for the particular year under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.168 or 1029.8.36.170, as the case may be, in respect of the expenses, and

ii. any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this paragraph in respect of an amount of repayment of that assistance; and

(b) the amount by which the aggregate of all amounts each of which is an amount that it would be deemed to have paid to the Minister, in respect of the expenses, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.168 or 1029.8.36.170, as the case may be, for the particular year, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the repayment year, if any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the amount of any government assistance or non-government assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.172, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister, in respect of the expenses, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.168 or 1029.8.36.170, as the case may be, for the particular year, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the repayment year, and

ii. any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this paragraph in respect of an amount of repayment of that assistance.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 432.

Repayment of assistance by a partnership.

1029.8.36.174. Where a partnership pays, in a fiscal period, in this section referred to as the "fiscal period of repayment", pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.172, a corporation's share of the eligible expenses of the partnership for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.169 or 1029.8.36.171, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation's balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if the corporation is a member of the partnership at the end of the fiscal period of repayment and if it encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the aggregate of

(a) the amount by which the particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends exceeds the aggregate of

i. the amount that the corporation would be deemed to have paid to the Minister under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, in respect of the eligible expenses of the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this subparagraph for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the

taxation year in which the fiscal period of repayment ends exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the eligible expenses of the partnership, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this subparagraph for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the partnership, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amounts to which subparagraphs *a* and *b* of the first paragraph refer shall be computed as if

(a) any amount of assistance repaid at or before the end of the fiscal period of repayment reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.172; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 433; 2006, c. 36, s. 190; 2009, c. 15, s. 308.

Repayment of assistance by a member of a partnership.

1029.8.36.175. Where a corporation is a member of a partnership at the end of a fiscal period of the partnership, in this section referred to as the “fiscal period of repayment”, and pays, in the fiscal period of repayment, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced, because of subparagraph *ii* of subparagraph *b* of the first paragraph of section 1029.8.36.172, its share of the eligible expenses of the partnership for a particular fiscal period, for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.169 or 1029.8.36.171, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed to have paid to the Minister on the corporation’s

balance-due day for its taxation year in which the fiscal period of repayment ends, on account of its tax payable for that year under this Part, if it encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, an amount equal to the aggregate of

(a) the amount by which the particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

i. the amount that the corporation would be deemed to have paid to the Minister under subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, in respect of the share, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this subparagraph for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment; and

(b) the amount by which the aggregate of all amounts each of which is a particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, in respect of the share, under subparagraphs *d* and *e* of the first paragraph of section 1029.8.36.169 or 1029.8.36.171, as the case may be, for its taxation year in which the particular fiscal period ends, or under section 1029.8.36.171.1 or 1029.8.36.171.2 for another taxation year that precedes the taxation year in which the fiscal period of repayment ends, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment, and

ii. any amount that the corporation would be deemed to have paid to the Minister under this subparagraph for a taxation

year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount of that assistance repaid by the corporation, if the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

Rules applicable.

The particular amounts to which subparagraphs *a* and *b* of the first paragraph refer shall be computed as if

(a) any amount of assistance repaid at or before the end of the fiscal period of repayment reduced, for the particular fiscal period, the amount of any government assistance or non-government assistance referred to in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.172; and

(b) the agreed proportion in respect of the corporation for the particular fiscal period were the same as that for the fiscal period of repayment.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 434; 2006, c. 36, s. 191; 2009, c. 15, s. 309.

Deemed repayment of assistance.

1029.8.36.176. For the purposes of sections 1029.8.36.173 to 1029.8.36.175, an amount of assistance is deemed to be repaid, at a particular time, by a corporation or a partnership, as the case may be, pursuant to a legal obligation, where that amount

(a) reduced, because of section 1029.8.36.172, eligible expenses or the share of such expenses of a corporation that is a member of the partnership, for the purpose of computing the amount that the corporation or the corporation that is a member of the partnership is deemed to have paid to the Minister for a taxation year under any of sections 1029.8.36.168 to 1029.8.36.171;

(b) was not received by the corporation or partnership; and

(c) ceased at the particular time to be an amount that the corporation or partnership may reasonably expect to receive.

History: 2002, c. 40, s. 209.

Increase of the unused portion of the refundable tax credit.

1029.8.36.176.1. For the purpose of computing the amount that a corporation is deemed to have paid to the Minister under section 1029.8.36.171.1 for a particular taxation year in respect of the unused portion of the refundable tax credit of the corporation for a particular preceding taxation year, the unused portion of the refundable tax credit of the corporation, otherwise determined, shall, where the conditions set out in the second paragraph are met for the particular year or for a preceding taxation year, each of which referred to in this section as a “year of increase”, be increased by the aggregate of all amounts each of which is

the excess amount referred to in subparagraph *b* of the second paragraph for a year of increase.

Conditions.

For the purposes of the first paragraph, the conditions that shall be met for a year of increase are as follows:

(a) paragraph *b* of section 1029.8.36.173 or subparagraph *b* of the first paragraph of section 1029.8.36.174 or 1029.8.36.175 applies for the year of increase to the corporation in relation to a particular amount that may reasonably be considered to be a repayment, made in the year of increase or in the fiscal period of a partnership ending in the year of increase, of government assistance or non-government assistance that reduced, because of section 1029.8.36.172, the eligible expenses of the corporation for the particular preceding year or the corporation’s share of the eligible expenses of the partnership for a fiscal period of the partnership ending in the particular preceding year; and

(b) the amount determined under the third paragraph exceeds the amount determined under the fourth paragraph.

Amount.

The first amount to which subparagraph *b* of the second paragraph refers is the total amount that the corporation would be deemed to have paid to the Minister for the particular preceding year under subparagraphs *d* and *e* of the first paragraph of sections 1029.8.36.168 to 1029.8.36.171 if

(a) no reference were made to the second paragraph of sections 1029.8.36.168 and 1029.8.36.169 and to the third paragraph of sections 1029.8.36.170 and 1029.8.36.171;

(b) where subparagraph *b* of the first paragraph of section 1029.8.36.174 or 1029.8.36.175 applies for the year of increase to the corporation, the agreed proportion in respect of the corporation for the partnership’s fiscal period that ends in the particular preceding year were the same as that for the year of increase; and

(c) any particular amount referred to in subparagraph *a* of the second paragraph that may reasonably be considered to be a repayment of government assistance or non-government assistance referred to in that subparagraph *a* reduced the amount of government assistance or non-government assistance.

Amount.

The second amount to which subparagraph *b* of the second paragraph refers is the aggregate of

(a) the amount that would be determined under the third paragraph if no reference were made to subparagraph *c* of that paragraph; and

(b) the total amount that the corporation is deemed to have paid to the Minister for the year of increase under sections 1029.8.36.173 to 1029.8.36.175.

History: 2004, c. 21, s. 435; 2006, c. 36, s. 192; 2009, c. 15, s. 310.

Eligible expenses reduced by a benefit or advantage.

1029.8.36.177. Where, in respect of eligible expenses of a qualified corporation or a qualified partnership, a person or a partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to work resulting from the eligible expenses, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.168 or 1029.8.36.170, as the case may be, the amount of the eligible expenses referred to in any of subparagraphs *a* to *e* of the first paragraph of that section 1029.8.36.168 or 1029.8.36.170 shall be reduced by the amount of the benefit or advantage relating to the eligible expenses that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the filing-due date of the qualified corporation for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.169 or 1029.8.36.171, as the case may be, by a qualified corporation that is a member of the qualified partnership referred to in that section, the share, referred to in any of subparagraphs *a* to *e* of the first paragraph of that section 1029.8.36.169 or 1029.8.36.171, of the qualified corporation, for a fiscal period of the partnership that ends in the taxation year, of the amount of the eligible expenses, shall be reduced

i. by its share, for the fiscal period, of the amount of the benefit or advantage relating to the eligible expenses that a person or partnership, other than a person referred to in subparagraph ii, has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period, and

ii. by the amount of the benefit or advantage relating to the eligible expenses that the qualified corporation or a person with which it does not deal at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period.

Qualified corporation's share.

For the purposes of subparagraph i of subparagraph *b* of the first paragraph, the share, for a fiscal period of a qualified

partnership, of a qualified corporation that is a member of the qualified partnership of the amount of the benefit or advantage that the partnership, or a person referred to in that subparagraph i, has obtained, is entitled to obtain or may reasonably expect to obtain, is equal to the agreed proportion of the amount in respect of the qualified corporation for the fiscal period.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 436; 2009, c. 15, s. 311.

Credit deemed not to be assistance.

1029.8.36.178. For the purposes of this Part and of the regulations, the amount that a qualified corporation is deemed to have paid to the Minister for a taxation year under any of sections 1029.8.36.168 to 1029.8.36.171.2 and 1029.8.36.173 to 1029.8.36.175, in respect of eligible expenses incurred before 13 June 2003, is deemed not to be assistance or an inducement received by the corporation from a government.

History: 2002, c. 40, s. 209; 2004, c. 21, s. 437.

DIVISION II.7

(Repealed).

§1. — *(Repealed).*

1029.8.37. *(Repealed).*

History: 1992, c. 1, s. 177; 1994, c. 22, s. 322; 1997, c. 85, s. 262.

1029.8.38. *(Repealed).*

History: 1992, c. 1, s. 177; 1997, c. 85, s. 262.

1029.8.39. *(Repealed).*

History: 1992, c. 1, s. 177; 1997, c. 85, s. 262.

§2. — *(Repealed).*

1029.8.40. *(Repealed).*

History: 1992, c. 1, s. 177; 1995, c. 63, s. 194; 1997, c. 31, s. 143; 1997, c. 85, s. 262.

1029.8.41. *(Repealed).*

History: 1992, c. 1, s. 177; 1997, c. 85, s. 262.

1029.8.42. *(Repealed).*

History: 1992, c. 1, s. 177; 1993, c. 19, s. 125; 1995, c. 63, s. 195; 1997, c. 85, s. 262.

1029.8.43. *(Repealed).*

History: 1992, c. 1, s. 177; 1993, c. 19, s. 126; 1993, c. 64, s. 169; 1995, c. 1, s. 158; 1995, c. 63, s. 196; 1997, c. 14, s. 235; 1997, c. 85, s. 262.

1029.3.44. *(Repealed).*

History: 1992, c. 1, s. 177; 1994, c. 22, s. 323; 1995, c. 63, s. 197; 1997, c. 14, s. 236; 1997, c. 85, s. 262.

1029.3.45. *(Repealed).*

History: 1992, c. 1, s. 177; 1997, c. 85, s. 262.

1029.3.46. *(Repealed).*

History: 1992, c. 1, s. 177; 1995, c. 63, s. 198; 1997, c. 85, s. 262.

1029.3.47. *(Repealed).*

History: 1992, c. 1, s. 177; 1995, c. 63, s. 199; 1997, c. 85, s. 262.

1029.3.48. *(Repealed).*

History: 1992, c. 1, s. 177; 1995, c. 63, s. 200; 1997, c. 85, s. 262.

§3. — *(Repealed).***1029.3.49.** *(Repealed).*

History: 1992, c. 1, s. 177; 1993, c. 19, s. 127; 1993, c. 64, s. 170; 1995, c. 63, s. 201.

DIVISION II.8**CREDIT FOR THE REPAYMENT OF BENEFITS****Refundable tax credit.**

1029.3.50. An individual who is resident in Québec on the last day of a particular taxation year and repays, in that year, all or part of an amount that is a benefit received by the individual under the Act respecting parental insurance (chapter A-29.011), the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, or under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) and included by the individual in computing the individual's income for one or more preceding taxation years, is deemed to have paid to the Minister on the individual's balance-due day for the particular taxation year, on account of the individual's tax payable for the particular year under this Part, the aggregate of all amounts each of which is an amount determined, for a preceding taxation year that is an eligible taxation year of the individual, within the meaning of section 766.2.2, to which the amount so repaid relates, in whole or in part, hereinafter called the "taxation year to which the averaging applies", by the formula

A – B.

Exception.

However, the first paragraph does not apply

(a) in respect of an amount repaid by the individual in the particular year under Part VII of the Unemployment

Insurance Act or Part VII of the Employment Insurance Act; and

(b) in respect of an individual who deducts an amount for the particular year under paragraph *d* of section 336 as a repayment of a benefit referred to in the first paragraph.

Interpretation.

In the formula in the first paragraph,

(a) A is the total of the tax that would have been payable by the individual, for the taxation year to which the averaging applies, under this Part and, if the taxation year to which the averaging applies precedes the year 1998, under Part I.1, as it read for that year, if the aggregate of all amounts each of which is the portion of an amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies, except such an amount that is a repayment referred to in the first paragraph that the individual makes in the particular year, had been included or deducted in computing the individual's taxable income for the taxation year to which the averaging applies; and

(b) B is the total of the tax that would have been payable by the individual, for the taxation year to which the averaging applies, under this Part and, if the taxation year to which the averaging applies precedes the year 1998, under Part I.1, as it read for that year, if the aggregate of all amounts each of which is the portion of an amount subject to an averaging mechanism, in relation to the individual for the particular taxation year or a preceding taxation year, that relates to the taxation year to which the averaging applies, had been included or deducted in computing the individual's taxable income for the taxation year to which the averaging applies.

Amount subject to an averaging mechanism.

For the purposes of the third paragraph, "amount subject to an averaging mechanism", in relation to an individual for a taxation year, means an amount that is received or paid by the individual in the year and that is referred to in any of subparagraphs *a* to *c* of the first paragraph of section 766.2, or an amount paid by the individual in the year and in respect of which the first paragraph applies, except, in respect of a taxation year to which the averaging applies and that ends before 1 January 2003, such an amount received or paid in a taxation year that ends before 1 January 2004.

Restriction.

If the second paragraph of section 22 applies to an individual, the amount that the individual is deemed to have paid to the Minister for the year under the first paragraph shall not exceed such portion of that amount as is represented by the proportion determined in respect of the individual for the year under the second paragraph of section 22.

Death or residence outside Canada.

For the purposes of the first paragraph, if an individual dies or ceases to be resident in Canada in a taxation year, the last day of that taxation year is the day on which the individual died or the last day on which the individual was resident in Canada.

Rules applicable.

In addition, for the purpose of establishing the amount determined by the formula in the first paragraph in respect of a taxation year to which the averaging applies, the following rules apply:

(a) the proportion referred to in the second paragraph of section 22 for the taxation year to which the averaging applies is deemed to be equal to 1; and

(b) if an individual was resident in Canada outside Québec on the last day of the taxation year to which the averaging applies, the individual is deemed to have been resident in Québec on the last day of that year.

Rules applicable.

For the purpose of applying this Part to any taxation year,

(a) an amount that is otherwise deducted in computing an individual's taxable income or tax payable under this Part for a taxation year subsequent to the taxation year to which the averaging applies may not be taken into account for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *b* of the third paragraph for the taxation year to which the averaging applies; and

(b) an amount that, under subparagraph *a* of the sixth paragraph of section 766.3.2, is deemed to be deducted in computing an individual's taxable income or tax payable under this Part for a taxation year to which the averaging applies, because it is deducted in that computation for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *d* of the second paragraph of section 766.3.2 or subparagraph *b* of the third paragraph of that section for the taxation year to which the averaging applies, may not be taken into account for the purpose of establishing the amount determined in respect of the individual under subparagraph *a* or *b* of the third paragraph for the taxation year to which the averaging applies.

History: 1992, c. 1, s. 177; 1993, c. 64, s. 171; 1995, c. 1, s. 159; 1995, c. 63, s. 202; 1997, c. 14, s. 290; 1997, c. 31, s. 118; 1997, c. 85, s. 263; 1998, c. 16, s. 251; 2000, c. 5, s. 268; 2001, c. 51, s. 190; 2003, c. 9, s. 345; 2005, c. 38, s. 276; 2009, c. 15, s. 312; 2011, c. 6, s. 191; 2015, c. 21, s. 476.

DIVISION II.8.1

(Repealed).

1029.3.50.1. *(Repealed).*

History: 1999, c. 83, s. 219; 2000, c. 39, s. 189; 2005, c. 23, s. 227.

DIVISION II.8.2

CREDIT RELATING TO THE TAX DEDUCTED OR WITHHELD IN RESPECT OF AN INCOME-AVERAGING ANNUITY RESPECTING INCOME FROM ARTISTIC ACTIVITIES

Credit.

1029.3.50.2. An individual resident in Québec at the end of a taxation year is deemed to have paid to the Minister, on the individual's filing-due date for the year, on account of the individual's tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is an amount deducted or withheld, under the second paragraph of section 1129.68, in respect of an income-averaging annuity payment respecting income from artistic activities, as defined in section 1129.67, to the extent that each of the amounts referred to in the definition of that expression is included in computing the individual's income for the year under paragraph *c* or *d.1* of section 312.

Presumptions.

For the purposes of the first paragraph, the following rules apply:

(a) if an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is the day of the individual's death or the last day on which the individual was resident in Canada; and

(b) if an amount is not deducted or withheld in accordance with the second paragraph of section 1129.68 in respect of an income-averaging annuity payment respecting income from artistic activities and the tax provided for in section 1129.68 is paid, in respect of the income-averaging annuity payment respecting income from artistic activities, by the individual referred to in the first paragraph of that section, or by the person referred to in the second paragraph of that section, the amount so paid is deemed to have been deducted or withheld in accordance with the second paragraph of section 1129.68 in respect of the income-averaging annuity payment respecting income from artistic activities.

Computation of payments.

For the purpose of computing the payments that an individual referred to in the first paragraph is required to make under section 1025 or 1026, the individual is deemed to have paid to the Minister, on account of the individual's tax payable for the year under this Part, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2005, c. 23, s. 228; 2009, c. 15, s. 313.

DIVISION II.8.3 CREDIT RELATING TO THE RETROACTIVE DETERMINATION OF CERTAIN BENEFITS

Deemed over payment relating to the retroactive determination of an income replacement indemnity or a compensation for the loss of financial support.

1029.8.50.3. If section 766.3.2 applies to an individual for a taxation year and the amount determined for that year by the formula in the first paragraph of section 766.3.2 is, without reference to section 7.5, less than zero, the negative amount so computed must be expressed as a positive amount that the individual is deemed to have paid, on the individual's balance-due day for that year, on account of the individual's tax payable for that year under this Part.

History: 2005, c. 38, s. 277; 2015, c. 21, s. 477.

DIVISION II.9 (Repealed).

§1. — (Repealed).

1029.8.51. (Repealed).

History: 1992, c. 1, s. 177; 1993, c. 19, s. 128; 1995, c. 1, s. 160.

§2. — (Repealed).

1029.8.52. (Repealed).

History: 1992, c. 1, s. 177; 1993, c. 19, s. 129; 1995, c. 1, s. 160.

1029.8.52.1. (Repealed).

History: 1993, c. 19, s. 130; 1995, c. 1, s. 160.

DIVISION II.10 (Repealed).

1029.8.53. (Repealed).

History: 1993, c. 16, s. 335; 1996, c. 39, s. 273; 2003, c. 9, s. 346.

DIVISION II.11 (Repealed).

§1. — (Repealed).

1029.8.54. (Repealed).

History: 1993, c. 19, s. 131; 2001, c. 51, s. 191; 2005, c. 38, s. 278.

1029.8.55. (Repealed).

History: 1993, c. 19, s. 131; 2005, c. 38, s. 278 [amended by 2006, c. 36, s. 305].

1029.8.56. (Repealed).

History: 1993, c. 19, s. 131; 2003, c. 9, s. 347; 2005, c. 1, s. 250; 2005, c. 38, s. 278 [amended by 2006, c. 36, s. 305].

§2. — (Repealed).

1029.8.57. (Repealed).

History: 1993, c. 19, s. 131; 1995, c. 1, s. 161; 1995, c. 63, s. 203; 1997, c. 31, s. 143; 2005, c. 38, s. 278.

1029.8.58. (Repealed).

History: 1993, c. 19, s. 131; 2005, c. 1, s. 251; 2005, c. 38, s. 278.

1029.8.59. (Repealed).

History: 1993, c. 19, s. 131; 2000, c. 5, s. 269; 2001, c. 53, s. 221; 2005, c. 1, s. 252; 2005, c. 38, s. 278 [amended by 2006, c. 36, s. 305].

1029.8.60. (Repealed).

History: 1993, c. 19, s. 131; 1995, c. 63, s. 204; 2005, c. 38, s. 278 [amended by 2007, c. 12, s. 346].

1029.8.61. (Repealed).

History: 1993, c. 19, s. 131; 1995, c. 63, s. 204; 2005, c. 38, s. 278.

DIVISION II.11.1 CREDIT FOR HOME SUPPORT FOR SENIORS

§1. — *Interpretation*

Definitions:

1029.8.61.1. In this division,

“*dependant*”;

“*dependant*” of an eligible individual, at any time, means a person who is dependent on the eligible individual if, at that time, that person is, in respect of the eligible individual, a child or any other person related to the eligible individual by blood, marriage or adoption who ordinarily lives with the eligible individual;

“dependent person”;

“dependent person” at a particular time means a person who, at that time, according to a written certificate from a physician within the meaning of section 752.0.18, depends and will continue to permanently depend, for a prolonged and indefinite period, on other people for most of the person’s needs and personal care relating to hygiene, dressing, eating and mobility or transfers, or who needs constant supervision because of a severe mental disorder characterized by an irreversible breakdown in thought activity;

“dwelling unit”;

“dwelling unit” of an eligible individual means a self-contained domestic establishment or a room that is leased or subleased by the eligible individual or the eligible individual’s spouse and that is the eligible individual’s principal place of residence, other than

(a) a self-contained domestic establishment or a room situated in a public network facility;

(b) a room situated in a hotel establishment or rooming house, that is leased or subleased by the eligible individual or the eligible individual’s spouse for a period of less than 60 consecutive days; or

(c) a room situated in a self-contained domestic establishment maintained by a person, or by the person’s spouse, who is the owner, lessee or sublessee of the self-contained domestic establishment and who, in respect of the eligible individual occupying the room, is deemed to have paid an amount on account of tax payable under section 1029.8.61.64 for the taxation year in which an eligible service is rendered or to be rendered in respect of the eligible individual;

“eligible expense”;

“eligible expense” made by an eligible individual in a taxation year means, subject to section 1029.8.61.2, the portion of an amount paid in the year by the eligible individual or by the person who is the eligible individual’s spouse at the time of the payment, that may reasonably be attributed to an eligible service rendered or to be rendered in respect of the eligible individual after the eligible individual has attained the age of 70 years, and that corresponds

(a) in the case of a service rendered or to be rendered by an employee of an eligible individual, to the aggregate of

- i. the salary or wages of the employee in respect of the service,
- ii. each of the amounts payable in respect of the employee in relation to the salary or wages referred to in subparagraph i under any of

(1) section 59 of the Act respecting parental insurance (chapter A-29.011),

(2) section 34 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5),

(3) section 52 of the Act respecting the Québec Pension Plan (chapter R-9), or

(4) section 68 of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), and

iii. the expenses paid for a payroll processing service for the payment of the salary or wages referred to in subparagraph i; or

(b) in the case of a service rendered or to be rendered by a person, other than a person who is an employee of the eligible individual, or a partnership, each of which referred to in this division as the “service provider”, to the amount that is the cost of the service, including, where applicable, the goods and services tax or the Québec sales tax in respect of the service;

“eligible individual”;

“eligible individual” for a taxation year means an individual, other than a trust, who, at the end of 31 December of the year, is resident in Québec and has attained the age of 70 years;

“eligible rent”;

“eligible rent” for a dwelling unit for a particular month means an amount that is equal to the lesser of the rent attributable to the particular month and specified in the lease of the dwelling unit or, in the case of an oral lease, in the written document that must be given to the lessee, to which is added, if applicable, the additional rent attributable to that month and specified in the schedule to the lease of the dwelling unit—taking into account, if the lease was renewed, the changes made to the rent for the dwelling unit and, if applicable, the changes made to the additional rent—and the amount paid or payable by the lessee, for the particular month, as rent for the dwelling unit;

“eligible service”;

“eligible service” in respect of an eligible individual means a home support service that is

(a) a personal support service that is a service described in the first paragraph of section 1029.8.61.3, rendered or to be rendered in Québec to the eligible individual by a person or a service provider who is not

- i. the spouse of the eligible individual,
- ii. a dependant of the eligible individual, or
- iii. a person, or the spouse of that person, who is deemed, in respect of the eligible individual, to have paid an amount on account of the person’s or spouse’s tax payable under section 1029.8.61.64 or 1029.8.61.85 for the taxation year in which the service is rendered or is to be rendered to the eligible individual; or

(b) a maintenance or supply service that is a service described in the second paragraph of section 1029.8.61.3, rendered or to be rendered in Québec by a person or a service provider who is neither the eligible individual’s spouse nor a

dependant of the eligible individual, in respect of a residential unit or dwelling unit of the eligible individual, or of land on which the unit is situated;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”;

“family income” of an individual for a taxation year means the aggregate of the income of the individual for the year and the income, for the year, of the person who is the individual’s eligible spouse for the year;

“private seniors’ residence”;

“private seniors’ residence” for a particular month means a congregate residential facility, or a part of such a facility, in respect of which the operator holds, at the beginning of the particular month, a temporary certificate of compliance or a certificate of compliance issued under subdivision 2.1 of Division II of Chapter I of Title I of Part III of the Act respecting health services and social services (chapter S-4.2) by the health and social services agency for the region in which the facility is situated;

“public network facility”;

“public network facility” means any of the following immovables:

(a) a facility maintained by a public institution or a private institution which is party to an agreement under the Act respecting health services and social services that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre to which that Act applies;

(b) a facility maintained by a hospital centre or a reception centre that is a public institution for the purposes of the Act respecting health services and social services for Cree Native persons (chapter S-5) or that entered into a contract or an agreement in accordance with section 176 or 177 of that Act; or

(c) a building or residential facility where are offered the services of an intermediate resource or a family-type resource within the meaning of the Act respecting health services and social services or those of a foster family within the meaning of the Act respecting health services and social services for Cree Native persons;

“residential unit”;

“residential unit” of an eligible individual means a self-contained domestic establishment owned by the eligible individual or the eligible individual’s spouse and that is the eligible individual’s principal place of residence;

“salary or wages”;

“salary or wages” means an amount that an employee receives for an eligible service rendered or to be rendered in respect of an eligible individual who is the employer of the employee;

“schedule to the lease”.

“schedule to the lease” of a dwelling unit means the form that must be attached to the lease of the dwelling unit, in accordance with section 2 of the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (chapter R-8.1, r. 3).

Rules of application.

For the purposes of the definition of “eligible expense” in the first paragraph, the following rules apply:

(a) only the portion of an amount paid as rent that is determined in accordance with section 1029.8.61.2.1 or 1029.8.61.2.5 is an eligible expense made by an eligible individual in a taxation year;

(a.1) the amount obtained by multiplying the total of the amounts paid in a taxation year by the syndicate of co-owners as consideration for one or more eligible services rendered or to be rendered in respect of the common portions of an immovable, other than those for restricted use, by the share of the expenses arising from the co-ownership that relates to the fraction of the co-ownership owned by the eligible individual or the eligible individual’s spouse, is an eligible expense made by an eligible individual in the year in respect of expenses arising from the divided co-ownership of the immovable;

(b) the amount of an expenditure in respect of an eligible service shall not be greater than the fair market value of the service;

(c) the amount of an expenditure in respect of an eligible service includes only the amount relating to the provision of the service, excluding the cost of the food, beverages, materials or other property acquired for or in connection with the provision of the service, and that amount must, to constitute an eligible expense, be reasonable and specifically identified in writing by the service provider;

(d) the amount of an expense in respect of an eligible service rendered in respect of an eligible individual before the eligible individual’s death, paid by the legal representative on behalf of the deceased individual, is deemed to have been paid by the eligible individual in the year in which the eligible individual died; and

(e) an amount paid in respect of a dwelling unit of an eligible individual situated in a private seniors’ residence for a particular month in a taxation year in addition to the eligible rent for that dwelling unit for the particular month is an eligible expense made by the eligible individual in the year, to the extent that the amount is paid

i. to the operator of the private seniors’ residence or to a person related to the operator, as consideration for the provision of an eligible service described in subparagraph *a* or *e* of the first paragraph of section 1029.8.61.3, or

ii. to a person or partnership, other than the operator of the private seniors' residence or a person related to the operator, as consideration for the provision of any of the following eligible services:

- (1) a service described in any of subparagraphs *a*, *b*, *c.2* and *e* of the first paragraph of section 1029.8.61.3,
- (2) a service described in subparagraph *a* of the second paragraph of section 1029.8.61.3, or
- (3) a service described in subparagraph *b* of the second paragraph of section 1029.8.61.3, if it is rendered in the course of the provision of a service described in subparagraph *a* of that paragraph.

Deceased individual.

For the purposes of the definition of "eligible individual" in the first paragraph, an individual who was resident in Québec immediately before death is deemed to be resident in Québec at the end of 31 December of the year in which the individual died.

Individual not resident in Canada.

For the purposes of the definition of "family income" in the first paragraph, if an individual was not resident in Canada throughout a taxation year, the individual's income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 2000, c. 39, s. 190; 2001, c. 51, s. 192; 2002, c. 9, s. 114; 2004, c. 21, s. 438; 2005, c. 1, s. 253; 2005, c. 38, s. 279; 2006, c. 13, s. 171; 2006, c. 36, s. 193; 2007, c. 12, s. 195; 2009, c. 15, s. 314; 2011, c. 34, s. 93; 2013, c. 10, s. 125; 2015, c. 1, s. 114.

1029.8.61.1.1. (*Repealed*).

History: 2002, c. 9, s. 115; 2005, c. 1, s. 254; 2005, c. 38, s. 280; 2009, c. 15, s. 315.

Dwelling unit situated in a facility maintained by a private institution not under agreement.

1029.8.61.1.2. For the purposes of this division, the amount of an eligible expense made by an eligible individual in a taxation year in respect of a dwelling unit situated in a facility maintained by a private institution not under agreement that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2) must be determined as if the dwelling unit were situated in a private seniors' residence.

History: 2013, c. 10, s. 126.

Transitional rules.

1029.8.61.1.3. For the purposes of this division, the following rules apply:

(a) a congregate residential facility, or a part of such a facility, in respect of which the operator does not hold, at the beginning of a particular month that begins after 31 December 2012 and before 1 July 2013, either of the certificates referred to in the definition of "private seniors' residence" in the first paragraph of section 1029.8.61.1 and that was not entered in the register of private seniors' residences referred to in section 346.0.1 of the Act respecting health services and social services (chapter S-4.2) on 1 December 2012, is considered to be a private seniors' residence for the particular month if it was a residence for the elderly on 31 December 2012, within the meaning of section 1029.8.61.1 as it read on that date, unless the operator has been notified, before 30 June 2013, in accordance with section 346.0.12 of the Act respecting health services and social services, of the maximum period for terminating the activities of the residence, in which case the rule in paragraph *b* applies; and

(b) a congregate residential facility, or a part of such a facility, that, on 31 December 2012, is a residence for the elderly, within the meaning of section 1029.8.61.1 as it read on that date, whose activities cease as a consequence of the application of section 42 or 43 of the Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences (2011, chapter 27), is considered to be a private seniors' residence for any month subsequent to the month of December 2012 that precedes the month that follows the month in which the activities of the residence cease.

History: 2013, c. 10, s. 126.

Non-eligible expenses.

1029.8.61.2. Subject to section 1029.8.61.2.7 and for the purposes of this division, an eligible expense, in respect of eligible services rendered or to be rendered in respect of an eligible individual, does not include, for a taxation year,

(a) any amount that was deducted in computing the income or taxable income of the eligible individual or the eligible individual's spouse for the year or a preceding taxation year under this Part;

(b) any amount that was taken into account in computing

i. an amount that was deducted in computing the tax payable by the eligible individual or the eligible individual's spouse for the year or a preceding taxation year under this Part, or

ii. an amount that is deemed to have been paid to the Minister on account of the tax payable by the eligible individual or the eligible individual's spouse for the year or a

preceding taxation year under this Part, except an amount that is deemed, under this division, to have been paid to the Minister on account of the tax payable by the eligible individual or the eligible individual's spouse for the year under this Part; or

(c) any amount for which the eligible individual or the eligible individual's spouse or, as the case may be, the legal representative of either the eligible individual or the eligible individual's spouse, has received or is entitled to receive a refund, except to the extent that that amount is required to be included in computing the income of the eligible individual or the eligible individual's spouse under this Part and is not deductible in computing the income or taxable income of the eligible individual or the eligible individual's spouse.

History: 2000, c. 39, s. 190; 2003, c. 2, s. 276; 2004, c. 21, s. 439; 2009, c. 15, s. 316.

Rent for a dwelling unit in a private seniors' residence.

1029.8.61.2.1. The portion of an amount paid for a particular month in a taxation year as rent for a dwelling unit of an eligible individual situated in a private seniors' residence that is an eligible expense made by the eligible individual in the year is equal to

(a) if, for the particular month, the eligible individual lives alone in the dwelling unit or only with a person to whom the eligible individual provides lodging, co-leases the dwelling unit with at least one person who is not the eligible individual's spouse, or lives in the dwelling unit with the eligible individual's spouse who, at the end of the particular month, is 69 years of age or under, the amount determined under section 1029.8.61.2.2; or

(b) if, for the particular month, the eligible individual shares the dwelling unit only with the eligible individual's spouse who, at the end of the particular month, is 70 years of age or over, the amount determined under section 1029.8.61.2.4.

History: 2009, c. 15, s. 317; 2013, c. 10, s. 127.

Amount to be determined for purposes of section 1029.8.61.2.1.

1029.8.61.2.2. The amount that must be determined, for the purposes of paragraph *a* of section 1029.8.61.2.1, for a particular month in a taxation year, in respect of an eligible individual's dwelling unit is the lesser of

(a) the amount equal to 75% of the eligible rent for the dwelling unit for that month, if the eligible individual is a dependent person at the end of the particular month, and in any other case, to 65% of the eligible rent, to the extent that the eligible rent has been paid; and

(b) the amount determined by the formula

$A + B + C + D + E + F.$

Interpretation.

In the formula in subparagraph *b* of the first paragraph,

(a) A is an amount equal to the greater of 15% of the eligible rent for the dwelling unit for the particular month and \$150, but without exceeding \$375;

(b) B is, if the eligible individual receives, for the particular month, a laundry service for the care of bedding or clothing at least once a week, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 5% of the eligible rent for the dwelling unit for that month and \$50, but without exceeding \$125;

(c) C is, if the eligible individual receives, for the particular month, a housekeeping service at least once every two weeks, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 5% of the eligible rent for the dwelling unit for that month and \$50, but without exceeding \$125;

(d) D is, if the eligible individual receives, for the particular month, a daily food service concerning the preparation or delivery of at least one of three meals (breakfast, lunch or supper), as specified in the schedule to the lease of the dwelling unit, an amount equal to

i. the greater of 10% of the eligible rent for the dwelling unit for that month and \$100, but without exceeding \$200, if the food service is provided in respect of one meal a day,

ii. the greater of 15% of the eligible rent for the dwelling unit for that month and \$150, but without exceeding \$300, if the food service is provided in respect of two meals a day, and

iii. the greater of 20% of the eligible rent for the dwelling unit for that month and \$200, but without exceeding \$400, if the food service is provided in respect of three meals a day;

(e) E is, if the eligible individual receives, for the particular month, a service providing for the presence of a person, who is a member of the Ordre des infirmières et infirmiers du Québec or of the Ordre des infirmières et infirmiers auxiliaires du Québec, for a period of at least three hours a day, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 10% of the eligible rent for the dwelling unit for that month and \$100, but without exceeding \$250; and

(f) F is, if the eligible individual receives, for the particular month, a service providing for the presence of a personal care attendant for a period of at least seven hours a day, as specified in the schedule to the lease of the dwelling unit, the aggregate of the following amounts:

i. the greater of 10% of the eligible rent for the dwelling unit for that month and \$100, but without exceeding \$350, and

ii. if the eligible individual is a dependent person at the end of the month, the greater of 10% of the eligible rent for the dwelling unit for that month and \$100.

History: 2009, c. 15, s. 317; 2011, c. 1, s. 81; 2013, c. 10, s. 128.

1029.8.61.2.3. (*Repealed*).

History: 2009, c. 15, s. 317; 2011, c. 1, s. 82; 2013, c. 10, s. 129.

Amount to be determined for purposes section 1029.8.61.2.1.

1029.8.61.2.4. The amount that must be determined, for the purposes of paragraph *b* of section 1029.8.61.2.1, for a particular month in a taxation year, in respect of an eligible individual's dwelling unit is the lesser of

(a) the amount equal to 80% of the eligible rent for the dwelling unit for that month, if the eligible individual or the eligible individual's spouse is a dependent person at the end of the particular month, and to 70% of the eligible rent, if neither the eligible individual nor the eligible individual's spouse is a dependent person at the end of the particular month, to the extent that the eligible rent has been paid; and

(b) the amount determined by the formula

$$A + B + C + D + E + F.$$

Interpretation.

In the formula in subparagraph *b* of the first paragraph,

(a) A is an amount equal to the greater of 12% of the eligible rent for the dwelling unit for the particular month and \$150, but without exceeding \$375;

(b) B is, if the eligible individual or the eligible individual's spouse receives, for the particular month, a laundry service for the care of bedding or clothing at least once a week, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 5% of the eligible rent for the dwelling unit for that month and \$75, but without exceeding \$125;

(c) C is, if the eligible individual or the eligible individual's spouse receives, for the particular month, a housekeeping service at least once every two weeks, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 4% of the eligible rent for the dwelling unit for that month and \$50, but without exceeding \$125;

(d) D is, if the eligible individual or the eligible individual's spouse receives, for the particular month, a daily food service concerning the preparation or delivery of at least one of three meals (breakfast, lunch or supper), as specified in the schedule to the lease of the dwelling unit, an amount equal to

i. the greater of 14% of the eligible rent for the dwelling unit for that month and \$200, but without exceeding \$400, if the food service is provided in respect of one meal a day,

ii. the greater of 21% of the eligible rent for the dwelling unit for that month and \$300, but without exceeding \$600, if the food service is provided in respect of two meals a day, or

iii. the greater of 26% of the eligible rent for the dwelling unit for that month and \$400, but without exceeding \$800, if the food service is provided in respect of three meals a day;

(e) E is, if the eligible individual or the eligible individual's spouse receives, for the particular month, a service providing for the presence of a person, who is a member of the Ordre des infirmières et infirmiers du Québec or of the Ordre des infirmières et infirmiers auxiliaires du Québec, for a period of at least three hours a day, as specified in the schedule to the lease of the dwelling unit, an amount equal to the greater of 8% of the eligible rent for the dwelling unit for that month and \$100, but without exceeding \$250; and

(f) F is, if the eligible individual or the eligible individual's spouse receives, for the particular month, a service providing for the presence of a personal care attendant for a period of at least seven hours a day, as specified in the schedule to the lease of the dwelling unit, the aggregate of

i. the greater of 15% of the eligible rent for the dwelling unit for that month and \$200, but without exceeding \$600, and

ii. any of the following amounts:

(1) if either the eligible individual or the eligible individual's spouse is a dependent person at the end of the particular month, the greater of 10% of the eligible rent for the dwelling unit for that month and \$200,

(2) if both the eligible individual and the eligible individual's spouse are dependent persons at the end of the particular month, the greater of 20% of the eligible rent for the dwelling unit for that month and \$200, or

(3) if neither the eligible individual nor the eligible individual's spouse is a dependent person at the end of the particular month, zero.

History: 2009, c. 15, s. 317; 2011, c. 1, s. 82; 2013, c. 10, s. 130.

Rent for a dwelling unit not situated in a private seniors' residence.

1029.8.61.2.5. The portion of an amount paid for a particular month in a taxation year as rent for an eligible individual's dwelling unit, other than a dwelling unit situated in a private seniors' residence, that is an eligible expense made by the eligible individual in the year is equal to the amount obtained by multiplying the lesser of the eligible rent for the dwelling unit for that month and \$600 by 5%.

Co-lessees.

If an eligible individual is co-leasing a dwelling unit with at least one person who is not the eligible individual's spouse, the amount of \$600 mentioned in the first paragraph is to be replaced by the quotient obtained by dividing that amount by the number of co-lessees of the dwelling unit.

History: 2009, c. 15, s. 317; 2013, c. 10, s. 131.

Rules applicable.

1029.8.61.2.6. For the purposes of sections 1029.8.61.2.1 to 1029.8.61.2.5 and of this section, the following rules apply:

(a) if an eligible individual lives, in a particular month, in a dwelling unit that the eligible individual's spouse is co-leasing with one or more other persons, the eligible individual is deemed, for the particular month, to be a co-lessee of the dwelling unit;

(b) if an eligible individual is co-leasing a dwelling unit, the eligible rent for the dwelling unit for a particular month is deemed to be equal, in respect of the eligible individual, to the amount obtained by dividing the eligible rent for the dwelling unit for that month by the number of co-lessees of the dwelling unit; and

(c) if, in a particular month, an eligible individual shares, only with the eligible individual's spouse, a dwelling unit of which the eligible individual's spouse is a lessee, the eligible individual is deemed, for the particular month, to be a lessee of the dwelling unit and the eligible rent for the dwelling unit for that month is deemed to be equal, in respect of the eligible individual, to the eligible rent for the dwelling unit for that month.

History: 2009, c. 15, s. 317.

Refunds attributable to particular expenses.

1029.8.61.2.7. For the purposes of any of subparagraphs *b* to *f* of the second paragraph of section 1029.8.61.2.2 or 1029.8.61.2.4, the amount of a refund that the eligible individual or the eligible individual's spouse, or, if applicable, the legal representative of either of them, has received or is entitled to receive and that is attributable to a service described in any of those subparagraphs *b* to *f*, must reduce the amount determined in respect of the service under that subparagraph, up to the latter amount.

Refunds attributable to rent.

For the purposes of any of sections 1029.8.61.2.2 to 1029.8.61.2.6, the eligible rent for a dwelling unit for a particular month in respect of an eligible individual must be reduced by the amount of a refund attributable to that rent, other than an amount of refund referred to in the first paragraph, that the eligible individual or the eligible individual's spouse, or, if applicable, the legal representative

of either of them, has received or is entitled to receive for that month.

History: 2009, c. 15, s. 317; 2013, c. 10, s. 132.

Eligible services.

1029.8.61.3. The personal support services rendered or to be rendered to an eligible individual, that are essential to the eligible individual's remaining at home or that enable the eligible individual to remain at home, and to which paragraph *a* of the definition of "eligible service" in the first paragraph of section 1029.8.61.1 refers are, subject to sections 1029.8.61.3.1 and 1029.8.61.4, the following services:

(a) a personal care service to assist the individual with hygiene, dressing, eating and mobility or transfers, if the individual does not have the autonomy required to care fully for himself or herself, because of the individual's condition;

(b) a meal preparation or delivery service;

(c) a non-specialized supervision service;

(c.1) a person-centered remote monitoring service;

(c.2) a service related to the use of a personal GPS locator;

(d) a support service to enable the individual to fulfil the individual's duties or civic obligations; and

(e) a service rendered or to be rendered by a person who is a member of the Ordre des infirmières et infirmiers du Québec or of the Ordre des infirmières et infirmiers auxiliaires du Québec.

Eligible services.

The maintenance or supply services rendered or to be rendered in respect of an eligible individual's dwelling unit or residential unit, that are services required by an eligible individual so that tasks normally performed in respect of such a unit can be performed, and to which paragraph *b* of the definition of "eligible service" in the first paragraph of section 1029.8.61.1 refers, are, subject to sections 1029.8.61.3.1 and 1029.8.61.4, the following services:

(a) a housekeeping service;

(b) a clothing and household linen care service;

(c) a maintenance service consisting of minor maintenance work performed outside, including work to be performed usually at about the same date each year because of the change in seasons;

(c.1) a maintenance service consisting of minor maintenance work on a facility that is inside the dwelling unit or residential unit or, as the case may be, the building in which

the unit is situated, and that could have been outside, by reason of its nature or intended use; and

(d) an everyday necessities supply service.

History: 2000, c. 39, s. 190; 2002, c. 9, s. 116; 2005, c. 1, s. 255; 2006, c. 36, s. 194; 2009, c. 15, s. 318; 2013, c. 10, s. 133.

Meal preparation and delivery services.

1029.8.61.3.1. For the purposes of subparagraph *b* of the first paragraph of section 1029.8.61.3, the following rules apply:

(a) a meal preparation service means a service that consists in helping an eligible individual to prepare the eligible individual's meals in a dwelling unit or residential unit of an eligible individual, or a meal preparation service rendered or to be rendered by a community organization established and operated exclusively for non-profit purposes; and

(b) a meal delivery service means such a service rendered or to be rendered by a community organization established and operated exclusively for non-profit purposes.

Specialized monitoring service.

For the purposes of subparagraphs *c.1* and *c.2* of the first paragraph of section 1029.8.61.3, a person-centered remote monitoring service and a service related to the use of a personal GPS locator do not include the leasing of a device required for the provision of such a service.

Dry cleaning, laundering or pressing services.

The service, in respect of an eligible individual, described in subparagraph *b* of the second paragraph of section 1029.8.61.3 does not include a service rendered or to be rendered by a person or partnership whose principal business is the provision of dry cleaning, laundering or pressing services and other related services.

History: 2006, c. 36, s. 195; 2009, c. 15, s. 319; 2013, c. 10, s. 134.

Restrictions.

1029.8.61.4. The services in respect of an eligible individual that are described in section 1029.8.61.3 do not include

(a) a personal support service, which is a service described in any of subparagraphs *a* to *d* of the first paragraph of section 1029.8.61.3, rendered or to be rendered by a person who is a practitioner referred to in section 752.0.18;

(b) a service rendered or to be rendered by a person who is a member of a professional order referred to in the Professional Code (chapter C-26) and whose provision is governed by that professional order, except a service described in subparagraph *e* of the first paragraph of section 1029.8.61.3;

(c) a service relating to construction and repair work or which requires a licence issued under the Building Act (chapter B-1.1);

(d) a service rendered or to be rendered by an institutional or non-institutional residential resource referred to in section 512 of the Act respecting health services and social services (chapter S-4.2) to an eligible individual in respect of whom a contribution may be required under that section;

(e) a service rendered or to be rendered by an institutional or non-institutional residential resource referred to in section 159 of the Act respecting health services and social services for Cree Native persons (chapter S-5) to an eligible individual in respect of whom a contribution may be required under that section; or

(f) a service consisting in completing a fiscal form, unless the form is the form referred to in section 1029.8.61.6.

History: 2000, c. 39, s. 190; 2005, c. 1, s. 256; 2006, c. 36, s. 196; 2007, c. 12, s. 196; 2009, c. 15, s. 320.

§2. — *Credit*

Credit for home support for seniors.

1029.8.61.5. Subject to section 1029.8.61.5.1, an eligible individual who, in a taxation year, makes an eligible expense and files, for the year, a fiscal return under section 1000 is deemed to have paid to the Minister, on the eligible individual's balance-due day for that taxation year, on account of the eligible individual's tax payable for the year under this Part, an amount equal to the amount determined by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) *A* is the product obtained by multiplying the aggregate of all amounts each of which is an eligible expense made by the eligible individual in the year by

i. 31%, for the taxation year 2013,

ii. 32%, for the taxation year 2014,

iii. 33%, for the taxation year 2015,

iv. 34%, for the taxation year 2016, or

v. 35%, for a taxation year subsequent to the taxation year 2016; and

(b) *B* is

i. 3% of the amount by which the eligible individual's family income for the year exceeds \$54,790, where neither the eligible individual, nor, if section 1029.8.61.5.1 applies in respect of the eligible individual, the eligible individual's eligible spouse, is a dependent person at the end of the year, and

ii. zero, in any other case.

Annual ceiling.

However, for the purposes of subparagraph *a* of the second paragraph, the aggregate of all amounts each of which is an eligible expense made by an eligible individual in a taxation year may not exceed

(a) \$25,500, if the eligible individual is a dependent person at the end of the year; or

(b) \$19,500, if subparagraph *a* does not apply to the eligible individual.

Filing requirements.

An eligible individual may be deemed to have paid an amount to the Minister under the first paragraph for a taxation year in respect of an eligible expense only if the eligible individual files with the Minister the following documents with the fiscal return the eligible individual is required to file for the year under section 1000, unless the documents have already been filed with the Minister in connection with an application for advance payments made under section 1029.8.61.6:

(a) if the eligible individual lives in a dwelling unit and the eligible expense includes a portion of the amount paid as rent, as determined under section 1029.8.61.2.1 or 1029.8.61.2.5,

i. a copy of the lease of the dwelling unit or of the written document that must be given to the lessee in the case of an oral lease,

ii. a copy of the schedule to the lease of the dwelling unit, if any, and

iii. a copy of any notice of change to the lease or of any judgment setting the rent for the dwelling unit; and

(b) if the eligible individual lives in an immovable under divided co-ownership and the eligible expense includes an amount in respect of the expenses arising from the co-ownership, a copy of the information return, in prescribed form, sent by the syndicate of co-owners.

History: 2000, c. 39, s. 190; 2002, c. 9, s. 117; 2006, c. 36, s. 197; 2007, c. 12, s. 197; 2009, c. 15, s. 321; 2013, c. 10, s. 135; 2015, c. 21, s. 478.

Eligible spouses.

1029.8.61.5.1. If, for a taxation year, an eligible individual is the eligible spouse of another eligible individual, the following rules apply:

(a) only one of those eligible individuals is deemed to have paid an amount to the Minister on account of that eligible individual's tax payable for the year under section 1029.8.61.5;

(b) the eligible expense made in the year by the eligible spouse of the eligible individual to whom paragraph *a* applies is deemed to be an eligible expense made in the year by that individual, to the extent that the amount of such an expense is not otherwise included in the aggregate of all amounts each of which is an eligible expense made in the year by the eligible individual; and

(c) the amount determined for the year under the third paragraph of section 1029.8.61.5 in respect of the eligible individual to whom paragraph *a* applies is to be increased by the amount that would be determined for the year under that paragraph in respect of the eligible individual's eligible spouse if this division were read without reference to this section.

History: 2009, c. 15, s. 322.

Spouses who cease to live together.

1029.8.61.5.2. If, at a particular time in a taxation year, two eligible individuals who are spouses cease to live together because of a breakdown of their marriage and their separation lasts for a period of at least 90 days that includes the particular time, the aggregate of all amounts each of which is an eligible expense made by either eligible individual in the period of the year preceding the particular time and in which they were spouses may be apportioned between them in such manner as may be agreed by them or, in case of disagreement, as the Minister may determine.

History: 2009, c. 15, s. 322.

Advance payments of credit for home support for seniors.

1029.8.61.6. If, on or before 1 December of a taxation year, an individual applies to the Minister, in the prescribed form containing the prescribed information, the Minister may pay, as an advance payment, on such terms and conditions as the Minister determines, an amount in respect of the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister under the first paragraph of section 1029.8.61.5, on account of the individual's tax payable for the year, in respect of an eligible expense made by the individual in the year for eligible services if

(a) the individual is resident in Québec at the time the application is made;

(b) the individual has reached 70 years of age at the time the eligible services are rendered or to be rendered in respect of the individual; and

(c) the individual has agreed that the advance payments be made by direct deposit in a bank account held at a financial institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Filing requirements.

If an application for advance payments referred to in the first paragraph is made in respect of an eligible expense that includes a portion of an amount paid as rent, the prescribed form used for the application must be accompanied by the documents described in subparagraphs i to iii of subparagraph *a* of the fourth paragraph of section 1029.8.61.5.

Change in situation.

The individual who receives advance payments on a regular basis shall notify the Minister, with dispatch, of any change in the individual's situation that may affect the advance payments to which the individual is entitled.

Application made by spouse.

If, at the time the application for advance payments referred to in the first paragraph is made, an individual has a spouse who satisfies the conditions set out in subparagraphs *a* and *b* of that paragraph, only one of them may make the application.

History: 2000, c. 39, s. 190; 2006, c. 13, s. 172; 2006, c. 36, s. 198; 2007, c. 12, s. 198; 2009, c. 15, s. 323; 2011, c. 6, s. 192; 2011, c. 34, s. 94.

Additional documents or information.

1029.8.61.6.1. The Minister may require from any individual who makes an application for advance payments referred to in the first paragraph of section 1029.8.61.6 a document or information other than those provided for in the first and second paragraphs of that section if the Minister considers the document or information necessary to evaluate the application.

History: 2011, c. 6, s. 193.

Refusal by the Minister.

1029.8.61.6.2. Despite the first paragraph of section 1029.8.61.6, the Minister is not required to grant an application for advance payments referred to in that paragraph for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application, received an amount the Minister paid in

advance under section 1029.8.61.6 for a preceding taxation year and, at the time the application is processed, has not filed a fiscal return for the preceding year; and

(b) the application is processed after the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 193.

Cessation or suspension of advance payments.

1029.8.61.6.3. The Minister may, at a particular time, cease to pay in advance, or suspend the payment of, an amount provided for in section 1029.8.61.6 to an individual for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application referred to in the first paragraph of section 1029.8.61.6 for the particular year, received an amount the Minister paid in advance under that section for a preceding taxation year and has not, as of the particular time, filed a fiscal return for the preceding year; and

(b) the particular time is subsequent to the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 193.

Suspension, reduction or cessation of advance payments.

1029.8.61.6.4. The Minister may suspend the advance payment of, reduce or cease to pay an amount provided for in section 1029.8.61.6 if documents or information brought to the Minister's attention so warrant.

History: 2011, c. 6, s. 193.

Exempt individual.

1029.8.61.7. An individual shall not be deemed to have paid an amount to the Minister under this division for a taxation year if the individual is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2000, c. 39, s. 190; 2007, c. 12, s. 199; 2010, c. 31, s. 175.

§3. — *Financial compensation*

Transitional financial compensation program.

1029.8.61.7.1. The Minister may establish and implement a transitional financial compensation program for elderly persons who live in a dwelling unit.

Fiscal law.

The program mentioned in the first paragraph is a fiscal law within the meaning of the Tax Administration Act (chapter A-6.002).

History: 2009, c. 15, s. 324; 2010, c. 31, s. 175.

DIVISION II.11.2
TAX CREDIT GRANTING AN ALLOWANCE TO FAMILIES

§1. — *Interpretation and general*

Definitions:

1029.8.61.8. In this division,

“base year”;

“base year” in relation to a particular month means

(a) where the particular month is any of the first six months of a calendar year, the taxation year that ended on 31 December of the second preceding calendar year; or

(b) where the particular month is any of the last six months of a calendar year, the taxation year that ended on 31 December of the preceding calendar year;

“cohabiting spouse”;

“cohabiting spouse” of an individual at any time means the person who at that time is the individual’s spouse and who is not at that time living separate and apart from the individual;

“eligible dependent child”;

“eligible dependent child” at any time means a person who at that time is under 18 years of age and

(a) is not a person in respect of whom an individual has deducted an amount under section 776.41.5 in computing the individual’s tax otherwise payable under this Part for the base year in relation to the particular month that includes that time; and

(b) is not lodged or sheltered under the law, unless the conditions relating to the contribution payable under the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons (chapter S-5, r. 1) are complied with;

“eligible individual”;

“eligible individual”, in respect of an eligible dependent child, at any time means an individual who at that time

(a) resides with the eligible dependent child;

(b) is the father or mother of the eligible dependent child;

(c) is resident in Québec or, where the individual is the cohabiting spouse of a person who is deemed to be resident in Québec throughout the taxation year that includes that time, other than a person who is exempt from tax for the year under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002), was resident in Québec in any preceding taxation year;

(d) is not exempt from tax for the taxation year that includes that time under section 982 or 983 or any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act; and

(e) is, or whose cohabiting spouse is,

i. a Canadian citizen,

ii. a permanent resident within the meaning of subsection 1 of section 2 of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27),

iii. a temporary resident or a holder of a temporary resident permit within the meaning of the Immigration and Refugee Protection Act, who was resident in Canada during the 18-month period preceding that time, or

iv. is a protected person within the meaning of the Immigration and Refugee Protection Act;

“family income”.

“family income” of an individual for a base year in relation to a particular month means the aggregate of the income of the individual for the base year and the income, for the base year, of the individual’s cohabiting spouse at the beginning of the particular month.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 174; 2007, c. 12, s. 200; 2010, c. 31, s. 175; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2017, c. 29, s. 184.

Rules relating to spouses.

1029.8.61.9. For the purposes of the definition of “cohabiting spouse” in section 1029.8.61.8, the following rules must be taken into consideration:

(a) a person shall not be considered to be living separate and apart from an individual at any time unless the person was living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time;

(b) where an individual would, but for this paragraph, have more than one cohabiting spouse at any time, the individual is deemed, at that time, to have only one cohabiting spouse and to be the cohabiting spouse of that person only; and

(c) where a person would, but for this paragraph, be the cohabiting spouse of more than one individual at any time, Retraite Québec may designate which of the individuals is deemed to have that person as sole cohabiting spouse at that time and that person is deemed to be the cohabiting spouse at that time solely of the individual so designated.

History: 2005, c. 1, s. 257; 2012, c. 8, s. 232; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

1029.8.61.10. (*Repealed*).

History: 2005, c. 1, s. 257; 2006, c. 13, s. 175.

Presumption.

1029.8.61.11. If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child with whom the person resides, other than a child who is the subject of shared custody at the beginning of the

particular month, the person is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month, unless the person is the child's biological mother and, at the beginning of the particular month, has not reached 18 years of age and does not have a cohabiting spouse.

Shared custody.

For the purposes of the first paragraph, an eligible dependent child who is the subject of shared custody at the beginning of a particular month means

(a) a child whose custody is shared between persons with whom the child has a bond of filiation, and in respect of whom each of those persons assumes at least 40% of custody time during the particular month; or

(b) a child whose custody is shared between a person with whom the child does not have a bond of filiation and a person with whom the child has such a bond, if the latter person assumes less than 50% of custody time during the particular month.

Specification.

If a person is deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than a person referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 176.

Presumption.

1029.8.61.11.1. If, at the beginning of a particular month, persons have a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of whom each of those persons assumes at least 40% of custody time during the particular month, each of those persons is deemed to fulfill the responsibility for the care and upbringing of that child at the beginning of the particular month.

Specification.

If persons are deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than persons referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.

History: 2006, c. 13, s. 177.

Presumption.

1029.8.61.11.2. If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of

whom the person does not assume at least 40% of custody time during the particular month, that person and, where applicable, the person's cohabiting spouse at the beginning of the particular month, are deemed not to be residing with that child at the beginning of the particular month.

History: 2006, c. 13, s. 177.

Person who fulfils the responsibility for the care and upbringing of the child.

1029.8.61.12. For the purpose of determining whether a person fulfils the responsibility for the care and upbringing of an eligible dependent child, the following criteria must be taken into account:

(a) supervising the child's daily activities and providing for the child's daily needs;

(b) maintaining a safe environment in which the child resides;

(c) obtaining medical care for the child at regular intervals and as necessary, and transporting the child to the places where this care is given;

(d) organizing, for the child, educational, recreational or sports activities, or other similar activities, and provide for the child's participation in such activities and transportation for this purpose;

(e) providing for the child's needs when the child is sick or requires another person's assistance;

(f) seeing to the child's personal hygiene on a regular basis;

(g) in general, being present for the child and guiding the child; and

(h) the existence of a court order that is issued in respect of the child and valid where the child resides.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 178.

Primary responsibility.

1029.8.61.12.1. If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, persons who are not married to each other or who, though married, do not live together, fulfill the responsibility for the care and upbringing of an eligible dependent child, that responsibility is deemed to be fulfilled by the person who primarily fulfills, at the beginning of the particular month, that responsibility and, where applicable, by the person who has a bond of filiation with that child and assumes at least 40% of custody time in respect of the child during the particular month.

History: 2006, c. 13, s. 179.

Equally shared responsibility.

1029.8.61.12.2. If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, responsibility for the care and upbringing of an eligible dependent child is shared equally between persons who are not married to each other or who, though married, do not live together, those persons must agree in determining which one of them is deemed to fulfill that responsibility at the beginning of the particular month, unless one of those persons has a bond of filiation with the child and assumes at least 40% of custody time in respect of the child, in which case each of those persons is deemed to fulfill that responsibility.

Determination by Retraite Québec.

If the persons referred to in the first paragraph cannot agree, Retraite Québec shall determine which of them is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month.

History: 2006, c. 13, s. 179; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Specification.

1029.8.61.12.3. For the purposes of sections 1029.8.61.12.1 and 1029.8.61.12.2, two married persons are considered not to be living together at any time if, at that time, they have been living separate and apart, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.

History: 2006, c. 13, s. 179.

Individual who is not resident in Canada throughout the year.

1029.8.61.13. For the purposes of the definition of “family income” in section 1029.8.61.8, where an individual was not resident in Canada throughout a particular base year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year.

History: 2005, c. 1, s. 257; 2011, c. 6, s. 194.

1029.8.61.14. *(Repealed).*

History: 2005, c. 1, s. 257; 2006, c. 13, s. 180.

1029.8.61.15. *(Repealed).*

History: 2005, c. 1, s. 257; 2006, c. 13, s. 180.

1029.8.61.16. *(Repealed).*

History: 2005, c. 1, s. 257; 2006, c. 13, s. 180.

Individual who became a bankrupt in a year.

1029.8.61.17. Where an individual becomes a bankrupt in a particular calendar year, section 779 does not apply for the purpose of determining the individual’s income for the year.

History: 2005, c. 1, s. 257.

§2. — Credit**Tax credit for child assistance.**

1029.8.61.18. Where an individual and, where applicable, the individual’s cohabiting spouse at the beginning of a particular month included in a taxation year file the document referred to in section 1029.8.61.23 for the base year in relation to the particular month, an amount equal to the amount determined by the following formula is deemed, for the particular month, to be an overpayment of the tax payable by the individual under this Part (in this division referred to as the “family allowance”):

$$1/12 A + B + I + J.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the greater of the amounts determined by the following formulas:

- i. $(C + D) - 4\% (E - F)$, and
- ii. $G + H$;

(b) B is an amount, in this division referred to as the “supplement for handicapped children”, equal to the product obtained by multiplying \$198 by the number of eligible dependent children referred to in section 1029.8.61.19 in respect of whom the individual is, at the beginning of the particular month, an eligible individual;

(c) I is an amount (in this division referred to as the “supplement for handicapped children requiring exceptional care”) equal to the aggregate of

i. the amount (in this division and the regulations referred to as the “amount for the first level”) equal to the product obtained by multiplying \$995 by the number of eligible dependent children referred to in subparagraph *a* of the first paragraph of section 1029.8.61.19.1 in respect of whom the individual is, at the beginning of the particular month, an eligible individual, and

ii. the amount (in this division and the regulations referred to as the “amount for the second level”) equal to the product obtained by multiplying \$663 by the number of eligible dependent children referred to in subparagraph *b* of the first paragraph of section 1029.8.61.19.1, without being referred

to in subparagraph *a* of that paragraph, in respect of whom the individual is, at the beginning of the particular month, an eligible individual; and

(*d*) *J* is an amount (in this division referred to as the “supplement for the purchase of school supplies”) equal to

i. where the particular month is July of the year, the product obtained by multiplying \$104 by the number of eligible dependent children described in the first paragraph of section 1029.8.61.19.5 in respect of whom the individual is, at the beginning of the particular month, an eligible individual,

ii. where the particular month is January 2018, the product obtained by multiplying \$100 by the number of eligible dependent children described in the second paragraph of section 1029.8.61.19.5 in respect of whom the individual is, at the beginning of the particular month, an eligible individual, or

iii. in any other case, zero.

Interpretation.

In the formulas provided for in subparagraph *a* of the second paragraph,

(*a*) *C* is an amount equal to the product obtained by multiplying \$2,515 by the number of eligible dependent children in respect of whom the individual is, at the beginning of the particular month, an eligible individual;

(*b*) *D* is an amount of \$882, where the individual has no cohabiting spouse at the beginning of the particular month;

(*c*) *E* is the individual’s family income for the base year in relation to the particular month;

(*d*) *F* is,

i. if the individual has a cohabiting spouse at the beginning of the particular month, the amount determined under the first paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such an individual, and

ii. if the individual has no cohabiting spouse at the beginning of the particular month, the amount determined under the second paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such an individual;

(*e*) *G* is an amount equal to the product obtained by multiplying \$1,000 by the number of eligible dependent children in respect of whom the individual is, at the beginning of the particular month, an eligible individual; and

(*f*) *H* is an amount of \$352, where the individual has no cohabiting spouse at the beginning of the particular month.

Restriction.

Where, at the beginning of a particular month, more than one eligible dependent child would, but for this paragraph, give entitlement to an amount in respect of a family allowance, as a consequence of the application of subparagraphs *a* and *e* of the third paragraph, only one of those eligible dependent children is deemed to give entitlement to such an amount.

Requirement.

The individual who, at the beginning of a particular month, is an eligible individual in respect of an eligible dependent child, or, where applicable, the individual’s cohabiting spouse at the beginning of the particular month, shall, for this section to apply to the individual, fulfill the responsibility for the care and upbringing of the eligible dependent child.

History: 2005, c. 1, s. 257; 2005, c. 38, s. 281; 2006, c. 13, s. 181; 2017, c. 29, s. 185; 2019, c. 14, s. 367; 2020, c. 16, s. 155.

Restriction.

1029.8.61.18.1. If, for a particular month included in a taxation year, two individuals, who are mutually cohabiting spouses at the beginning of the particular month, would, but for this section, be entitled to receive an amount in respect of a family allowance under section 1029.8.61.18, only the individual described in the second paragraph is entitled to receive that amount for the particular month.

Individual.

The individual to which the first paragraph refers is

(*a*) in the case of an initial application filed by a family, other than a blended family,

i. the biological mother of the eligible dependent child if the application is deemed, in accordance with section 1029.8.61.24, to have been filed, and

ii. the first of the individuals referred to in the first paragraph who files an application, other than the application referred to in subparagraph *i*, in respect of an eligible dependent child;

(*b*) in the case of an initial application filed by a blended family,

i. the individual who has a bond of filiation with the largest number of eligible dependent children named in the application, and

ii. if each of the cohabiting spouses has a bond of filiation with an equal number of eligible dependent children named in the application, the individual who has a bond of filiation with the youngest child or, if that child has a bond of filiation with each of the cohabiting spouses, the mother; and

(c) in the case of a second application and of any subsequent application filed by a family, the individual who receives, at the time of the application, an amount in respect of a family allowance.

Blended family.

For the purposes of subparagraphs *a* and *b* of the second paragraph, a blended family means two single-parent families that combine to form a new family.

History: 2006, c. 13, s. 182; 2010, c. 25, s. 179; 2019, c. 14, s. 666.

Amount to be replaced.

1029.8.61.18.2. If, at the beginning of a particular month, individuals, who are not mutually cohabiting spouses, are eligible individuals in respect of the same eligible dependent child, in this section referred to as the “child concerned”, and each of them is deemed to fulfill, at the beginning of the particular month, the responsibility for the care and upbringing of the child concerned under any of sections 1029.8.61.11.1, 1029.8.61.12.1 and 1029.8.61.12.2, the amount determined in respect of each individual for the particular month under section 1029.8.61.18 is to be replaced by an amount equal to the aggregate of

(a) the amount that would be determined in respect of the individual, for the particular month, under section 1029.8.61.18 if the individual was not, at the beginning of the particular month, an eligible individual in respect of each child concerned; and

(b) the amount that is equal to 50% of the amount by which the amount determined in respect of the individual for the particular month under section 1029.8.61.18 exceeds the amount determined under paragraph a in respect of the individual.

History: 2006, c. 13, s. 182.

Waiver.

1029.8.61.18.3. An eligible individual, in respect of an eligible dependent child, may, at any time, waive entitlement to receive an amount in respect of a family allowance in favour of another eligible individual, in respect of the eligible dependent child, who is the eligible individual’s cohabiting spouse, provided *Retraite Québec* is so notified.

Effective date.

The waiver takes effect from the date, subsequent to the date of the notice to *Retraite Québec*, on which an amount is paid in respect of a family allowance.

History: 2006, c. 13, s. 182; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Discretionary payment.

1029.8.61.18.4. *Retraite Québec* may, in exceptional circumstances and if it is convinced that it is in the family’s interest, pay an amount in respect of a family allowance that an eligible individual in respect of an eligible dependent child is entitled to receive to the eligible individual’s cohabiting spouse if that spouse is also an eligible individual in respect of the eligible dependent child.

History: 2006, c. 13, s. 182; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Supplement for handicapped children.

1029.8.61.19. An eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers is a child who, according to the prescribed rules, has an impairment or a mental function disability that substantially limits the child in performing the life habits of a child of his or her age during a foreseeable period of at least one year.

Filing of application.

For the purpose of considering an amount in respect of the supplement for handicapped children under subparagraph *b* of the second paragraph of section 1029.8.61.18 for a particular month, an application must be filed with *Retraite Québec* no later than 11 months after the end of the particular month and be accompanied by the report of a member of a professional order assessing the child’s condition for a period that precedes the application date by no more than 12 months.

Exemption.

There is an exemption from filing a new application and from filing a new report of a member of a professional order for the purpose of considering an amount in respect of the supplement for handicapped children under subparagraph *b* of the second paragraph of section 1029.8.61.18, where an individual becomes an eligible individual, in respect of an eligible child who already gives rise to entitlement to an amount in respect of the supplement for handicapped children and in respect of whom the individual has filed or is deemed to have filed an application under the first paragraph of section 1029.8.61.24.

Medical assessment.

Where divergent opinions exist concerning the assessment of the child’s condition, *Retraite Québec* may require that the child be examined by the physician it designates or by any other member of a professional order. If valid grounds are presented to oppose the choice of the physician or the member of a professional order, *Retraite Québec* shall designate another physician or member of a professional order.

Reassessment.

Retraite Québec may, at any time, require that the child's condition be reassessed.

Child no longer eligible.

Despite the first paragraph, the child is not considered to be an eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers if

(a) without a valid reason, the treatments or measures likely to improve the child's condition are not applied or continued; or

(b) there is refusal or omission to comply with a request for information or an examination to assess the child's condition.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 183; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2017, c. 29, s. 186.

Supplement for handicapped children with exceptional care needs.

1029.8.61.19.1. For the purposes of subparagraph *c* of the second paragraph of section 1029.8.61.18 and subject to sections 1029.8.61.19.2 to 1029.8.61.19.4,

(a) for the purpose of computing the amount for the first level, an eligible dependent child to whom subparagraph *i* of subparagraph *c* of the second paragraph of section 1029.8.61.18 refers is a child described in the first paragraph of section 1029.8.61.19 who is, according to the prescribed rules, in either of the following situations:

i. the child is two years of age or over at the beginning of the particular month and, during a foreseeable period of at least one year, has an impairment or a mental function disability entailing serious and multiple disabilities that prevent the child—to the extent prescribed for computing the amount for the first level—from independently performing the life habits of a child of his or her age, or

ii. the child's state of health at the beginning of the particular month requires, during a foreseeable period of at least one year, specified complex medical care at home that is described in the first paragraph of section 1029.8.61.19.3 and, where the child is six years of age or over at the beginning of the particular month and the care is care described in subparagraph *i* or *ii* of subparagraph *a* of that paragraph, the child's state of health limits the child—to the extent prescribed—in performing the life habits of a child of his or her age; and

(b) for the purpose of computing the amount for the second level, an eligible dependent child to whom subparagraph *ii* of subparagraph *c* of the second paragraph of section 1029.8.61.18 refers is a child described in the first paragraph of section 1029.8.61.19 who is, according to the prescribed rules, in either of the following situations:

i. the child is two years of age or over at the beginning of the particular month and, during a foreseeable period of at least one year, has an impairment or a mental function disability entailing serious and multiple disabilities that prevent the child—to the extent prescribed for computing the amount for the second level—from independently performing the life habits of a child of his or her age, or

ii. the child's state of health at the beginning of the particular month requires, during a foreseeable period of at least one year, specified complex medical care at home that is described in the second paragraph of section 1029.8.61.19.3.

Filing of application.

For the purpose of considering an amount in respect of the supplement for handicapped children requiring exceptional care under subparagraph *c* of the second paragraph of section 1029.8.61.18 for a particular month, an application must be filed with Retraite Québec no later than 11 months after the end of the particular month and be accompanied by pluridisciplinary reports made in respect of the child.

Medical assessment.

Where divergent opinions exist concerning the assessment of the child's condition, Retraite Québec may require that the child be examined by the physician it designates or by any other member of a professional order. If valid grounds are presented to oppose the choice of the physician or the member of a professional order, Retraite Québec shall designate another physician or member of a professional order.

Reassessment.

An eligible individual, in respect of a child, who becomes aware that a change in the child's condition is likely to change the child's eligibility for the amount for the first or second level must file with Retraite Québec an application for the reassessment of the child's condition.

Medical reassessment.

Retraite Québec may, at any time, require that the child's condition be reassessed.

Amount replaced after reassessment.

Where the reassessment of the child's condition under the fourth or fifth paragraph has the effect of increasing or reducing an amount in respect of the supplement for handicapped children requiring exceptional care that an individual is entitled to receive, the following rules apply:

(a) if the reassessment has the effect of increasing the amount that the individual is entitled to receive, the amount is revised as of the particular month following the month in which the application for reassessment is received by Retraite Québec or, if the reassessment is required by

Retraite Québec under the fifth paragraph, as of the particular month following the month in which the information required for the analysis of the child's condition is received by Retraite Québec; and

(b) if the reassessment has the effect of reducing the amount that the individual is entitled to receive or of causing the individual to no longer be entitled to such an amount, the amount is revised or is no longer paid, as the case may be, as of the particular month following the month in which the decision is rendered by Retraite Québec.

Cessation of eligibility.

Despite the first paragraph, a child is not considered to be an eligible dependent child to whom subparagraph *c* of the second paragraph of section 1029.8.61.18 refers if

(a) without a valid reason, the treatments or measures likely to improve the child's condition are not applied or continued; or

(b) there is refusal or omission to comply with a request for information or an examination to assess the child's condition.

History: 2017, c. 29, s. 187; 2019, c. 14, s. 368; 2020, c. 16, s. 156.

Exclusions.

1029.8.61.19.2. An eligible dependent child to whom subparagraph *c* of the second paragraph of section 1029.8.61.18 refers does not include a person who is lodged or sheltered under the law or a person who benefits from personal home assistance under

(a) section 158 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001);

(b) section 79 of the Automobile Insurance Act (chapter A-25); or

(c) section 5 of the Crime Victims Compensation Act (chapter I-6).

History: 2017, c. 29, s. 187.

Specified complex medical care at home.

1029.8.61.19.3. For the purposes of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.61.19.1, specified complex medical care at home is as follows:

(a) complex respiratory care, namely

i. non-invasive mechanical ventilation with bi-level positive airway pressure (BPAP) on a daily basis,

ii. care related to a tracheostomy without invasive mechanical ventilation, or

iii. care related to a tracheostomy with invasive mechanical ventilation;

(b) complex nutritional care, namely parenteral nutrition (intravenous hyperalimentation);

(c) complex cardiac care, namely

i. the intravenous administration of inotropes, and

ii. care related to a ventricular assist device (artificial heart pump); and

(d) complex renal care, namely peritoneal dialysis.

Specified complex medical care at home — second-tier.

For the purposes of subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.61.19.1, specified complex medical care at home is as follows:

(a) complex respiratory care, namely

i. oxygenotherapy or mechanical ventilation, on a daily basis and 24 hours a day, and

ii. where the child is six years of age or over at the beginning of the particular month, the care related to a tracheostomy without invasive mechanical ventilation;

(b) complex nutritional care, namely feeding through jejunal or gastro-jejunal tube; and

(c) daily skin care for extreme skin conditions affecting wide areas of the skin that are at high risk of developing pressure ulcers, synechia or shrinkage.

History: 2017, c. 29, s. 187; 2020, c. 16, s. 157.

Administration of specified medical care at home.

1029.8.61.19.4. Subparagraph ii of each of subparagraphs *a* and *b* of the first paragraph of section 1029.8.61.19.1 applies in respect of a child only if

(a) the father or mother of the child, as the case may be, has begun to administer the specified complex medical care at home to the child;

(b) the father or mother of the child, as the case may be, has been trained beforehand in a specialized center to master the specific techniques for using the required equipment and to be able to respond to any change in the child's clinical condition that may endanger the life of the child; and

(c) the child cannot self-administer the specified complex medical care at home.

History: 2017, c. 29, s. 187; 2020, c. 16, s. 158.

Eligible dependent child.

1029.8.61.19.5. An eligible dependent child to whom subparagraph *i* of subparagraph *d* of the second paragraph of section 1029.8.61.18 refers for a particular month is a child who, on 30 September following the particular month, is at least 4 years of age and at most

(a) 17 years of age, where the child is an eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers for the particular month; or

(b) 16 years of age, in any other case.

Schoolyear 2017-2018.

An eligible dependent child to whom subparagraph *ii* of subparagraph *d* of the second paragraph of section 1029.8.61.18 refers is a child who, on 30 September 2017, is at least 4 years of age and at most

(a) 17 years of age, where the child is an eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers for January 2018; or

(b) 16 years of age, in any other case.

History: 2019, c. 14, s. 369.

Amounts adjusted annually.

1029.8.61.20. Each of the amounts referred to in the fourth paragraph shall, where it is to be used for a taxation year subsequent to the taxation year 2020, be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that amount so used by the factor determined by the formula

$(A / B) - 1$.

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

(b) B is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year immediately before the year preceding that for which the amount is to be adjusted.

Factor rounded up.

If the factor determined by the formula in the first paragraph has more than four decimal places, only the first four decimal digits are retained and the fourth is increased by one unit if the fifth is greater than 4.

Amounts.

The amounts to which the first paragraph refers are

(a) the amount of \$198 mentioned in subparagraph *b* of the second paragraph of section 1029.8.61.18;

(a.1) the amounts of \$995 and \$663 mentioned in subparagraph *c* of the second paragraph of section 1029.8.61.18;

(a.2) the amount of \$104 mentioned in subparagraph *i* of subparagraph *d* of the second paragraph of section 1029.8.61.18;

(b) the amount of \$2,515 mentioned in subparagraph *a* of the third paragraph of section 1029.8.61.18;

(c) the amount of \$882 mentioned in subparagraph *b* of the third paragraph of section 1029.8.61.18;

(d) the amount of \$1,000 mentioned in subparagraph *e* of the third paragraph of section 1029.8.61.18; and

(e) the amount of \$352 mentioned in subparagraph *f* of the third paragraph of section 1029.8.61.18.

History: 2005, c. 1, s. 257; 2005, c. 38, s. 282; 2009, c. 5, s. 456; 2009, c. 15, s. 325; 2017, c. 29, s. 188; 2019, c. 14, s. 370; 2020, c. 5, s. 214; 2020, c. 16, s. 159.

Amounts adjusted.

1029.8.61.21. Where the amount that results from the adjustment provided for in section 1029.8.61.20 is not a multiple of \$1, it shall be rounded to the nearest multiple of \$1 or, if it is equidistant from two such multiples, to the higher thereof.

History: 2005, c. 1, s. 257.

Reduction threshold - couples.

1029.8.61.22. The amount to which subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount (in section 1029.8.61.22.1 referred to as the “family allowance reduction threshold”), applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who has an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph *ii* of subparagraph *b* of the second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible individual to be

deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

Reduction threshold - single-parent families.

The amount to which subparagraph ii of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount (in section 1029.8.61.22.1 referred to as the “family allowance reduction threshold”), applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who does not have an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph i of subparagraph *b* of the second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

Interpretation.

In this section, “eligible individual”, “eligible spouse”, “total income” and “work income” have the meaning assigned by section 1029.8.116.1.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 184; 2019, c. 14, s. 371.

Notice.

1029.8.61.22.1. The Minister of Finance publishes annually in the *Gazette officielle du Québec* a notice setting out the amounts of the family allowance reduction thresholds that are determined for a taxation year in accordance with the first and second paragraphs of section 1029.8.61.22.

Effective date.

The notice described in the first paragraph becomes effective from 1 January of the year for which the amounts of the family allowance reduction thresholds are determined and may be subject to a review having retroactive effect to that date.

History: 2006, c. 13, s. 185; Notice, (2019) 49 G.O. 1 (French), 772; 2019, c. 14, s. 372; Notice, (2020) 51 G.O. 1 (French), 924.

Documents to be filed.

1029.8.61.23. The document to which the first paragraph of section 1029.8.61.18 refers is

(a) where the individual is resident in Québec on 31 December of the base year and in Canada throughout that year, the fiscal return the individual is required to file under section 1000 for that year;

(b) where the individual is not resident in Québec on 31 December of the base year but is resident in Canada throughout that year, the fiscal return the individual is

required to file under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for that year or a statement of income for that year; and

(c) in any other case, a statement of income for the base year.

History: 2005, c. 1, s. 257.

Filing of application.

1029.8.61.24. An individual may be considered to be an eligible individual, in respect of an eligible dependent child, at the beginning of a particular month only if the individual files an application for a family allowance, in respect of that eligible dependent child, with Retraite Québec no later than 11 months after the end of the particular month.

Registrar of civil status.

An individual is deemed to have filed an application, in respect of an eligible dependent child, with Retraite Québec within the time prescribed in the first paragraph if the registrar of civil status provides Retraite Québec with the information required to establish the individual's eligibility.

Exemption.

There is an exemption from filing a new application, in respect of an eligible dependent child, where, no later than 12 months after the cessation of the entitlement to receive an amount in respect of a family allowance by reason of non-compliance with the conditions relating to the contribution referred to in paragraph *b* of the definition of “eligible dependent child” in section 1029.8.61.8 in respect of the child who is lodged or sheltered pursuant to the law, Retraite Québec is informed that the child is no longer lodged or sheltered or that those conditions are satisfied.

History: 2005, c. 1, s. 257; 2005, c. 38, s. 283 [amended by 2006, c. 13, s. 244]; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2017, c. 29, s. 189; 2019, c. 14, s. 373.

Application for an extension.

1029.8.61.24.1. An individual who did not file an application within the time prescribed in the second paragraph of section 1029.8.61.19 or 1029.8.61.19.1 or in the first paragraph of section 1029.8.61.24 may apply in writing to Retraite Québec for an extension, setting out the reasons why the application was not filed within the prescribed time.

Acceptance of application.

The application must be granted if the individual demonstrates that it was impossible in fact for that individual to act and that the application was filed as soon as circumstances permitted.

Extension period.

The time for filing the application may be extended for a period not exceeding 24 months.

History: 2017, c. 29, s. 190.

Individual no longer eligible.

1029.8.61.25. An individual who receives an amount in respect of a family allowance and who ceases to be an eligible individual, in respect of an eligible dependent child, in a particular month, otherwise than because the child reaches 18 years of age, shall notify Retraite Québec thereof before the end of the first month that follows the particular month.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 186; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Change in circumstances.

1029.8.61.26. An eligible individual, in respect of an eligible dependent child, at the beginning of a particular month shall notify Retraite Québec of any change in circumstances that may affect the individual's entitlement to receive an amount in respect of a family allowance.

Time limit.

The individual shall notify Retraite Québec before the end of the month that follows the month in which the change in circumstances occurs.

Communication of information.

Retraite Québec may, where information is communicated by the Minister or the registrar of civil status with respect to an individual who receives an amount in respect of a family allowance or by the Minister of National Revenue with respect to an individual who receives a Canada child benefit under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), consider that a change in circumstances has been communicated to it.

History: 2005, c. 1, s. 257; 2005, c. 38, s. 284 [amended by 2006, c. 13, s. 245]; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 374.

Revised amount.

1029.8.61.26.1. If a change in circumstances has the effect of increasing an amount in respect of a family allowance that an individual is entitled to receive, the amount is revised from the beginning of the particular month that follows the month in which the change in circumstances occurs, provided that Retraite Québec is notified of the change at or before the end of the eleventh month following the particular month or, if Retraite Québec is notified of the change after that time, from the beginning of the eleventh

month that precedes the month in which Retraite Québec is notified of the change.

History: 2006, c. 13, s. 187; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Notice of payment.

1029.8.61.27. Retraite Québec shall notify the eligible individual who is entitled to receive an amount in respect of a family allowance of the amount set for each 12-month period that begins on 1 July of each calendar year in respect of a family allowance.

New notice of payment.

The amount fixed under the first paragraph shall be revised during the year when a change in circumstances has the effect of changing the amount and a new notice shall be sent by Retraite Québec to the eligible individual.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 188; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

§3. — *Payment and recovery by Retraite Québec***Quarterly payments.**

1029.8.61.28. Retraite Québec shall pay to an eligible individual who is entitled to receive an amount in respect of a family allowance, in respect of an eligible dependent child, in the first 15 days of January, April, July and October of a taxation year, the amounts determined, in respect of the eligible individual, in respect of a family allowance for each month in that year, according to the following terms and conditions:

(a) the payment made in January shall include the amounts determined in respect of a family allowance for January, February and March of that year;

(b) the payment made in April shall include the amounts determined in respect of a family allowance for April, May and June of that year;

(c) the payment made in July shall include the amounts determined in respect of a family allowance for July, August and September of that year; and

(d) the payment made in October shall include the amounts determined in respect of a family allowance for October, November and December of that year.

Monthly payments.

Despite the first paragraph, Retraite Québec may, on application, pay an amount as or on account of a family allowance in the first 15 days of each month in a taxation year and such a payment shall include only the amount determined in respect of a family allowance for the month of that payment.

Payments of the supplement.

However, the payment made under the first or second paragraph of an amount determined in respect of a family allowance for a particular month that is either January 2018 or July of a year subsequent to the year 2017 does not include the portion of that amount that is attributable to the supplement for the purchase of school supplies, which portion is paid separately by Retraite Québec on or before the last day of the month following the particular month.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 189; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 375.

Deduction.

1029.8.61.29. At the request of the Minister of Employment and Social Solidarity, Retraite Québec shall deduct from the amount to be paid as or on account of a family allowance the amount repayable under section 90 of the Individual and Family Assistance Act (chapter A-13.1.1) and shall remit the amount so deducted to the Minister of Employment and Social Solidarity.

History: 2005, c. 1, s. 257; 2006, c. 25, s. 13; 2007, c. 12, s. 201; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Provisions not applicable.

1029.8.61.30. Sections 1051 and 1052 and sections 28 and 30.1 of the Tax Administration Act (chapter A-6.002) do not apply in respect of an amount paid as or on account of a family allowance under section 1029.8.61.28.

Restriction.

Despite section 31 of the Tax Administration Act, where a person is a debtor under a fiscal law or about to become so, or is in debt to the State under an Act other than a fiscal law and referred to in a regulation made under the second paragraph of that section, the Minister may not allocate to the payment of the debt of that person any amount to be paid to the person by Retraite Québec under section 1029.8.61.28.

History: 2005, c. 1, s. 257; 2010, c. 31, s. 175; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Prescription.

1029.8.61.31. The claim of an individual in respect of the payment of an amount in respect of a family allowance is prescribed by three years.

Interruption of prescription.

However, the prescription does not run where the payment made by Retraite Québec results from a new computation of the income taken into account in determining an amount in respect of a family allowance.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Reception of payment without entitlement.

1029.8.61.32. An individual who receives an amount in respect of a family allowance without entitlement must notify Retraite Québec with dispatch.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Repayment.

1029.8.61.33. An individual who receives an amount in respect of a family allowance without entitlement must repay such an amount to Retraite Québec, except if the amount was paid as a result of an administrative error that the individual could not reasonably have noticed.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Repayment.

1029.8.61.34. An amount owing to Retraite Québec by an individual must be repaid to Retraite Québec in full from the date of the formal notice that Retraite Québec sends to the individual.

Formal notice.

The formal notice shall state the grounds for the demand for repayment, the amount to be repaid, the right to apply for a review of the decision within the time limit provided for in section 1029.8.61.39 and, subject to the conditions set out in section 1029.8.61.41, the right to contest the review decision before the Administrative Tribunal of Québec.

Prescription.

The claim of Retraite Québec is prescribed by three years from the date on which the amount was paid without entitlement or, in the case of bad faith on the part of the individual who received the amount without entitlement, from the date on which Retraite Québec became aware of the fact that that amount had been paid without entitlement.

History: 2005, c. 1, s. 257; 2005, c. 17, s. 36; O.C. 1021-2005; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Solidary liability.

1029.8.61.35. If, for a particular month, Retraite Québec has paid to an individual, as or on account of a family allowance, an amount to which the individual was not entitled and that individual is the cohabiting spouse of an eligible individual, in respect of the eligible dependent child in respect of whom the amount has been paid, who was entitled to receive that amount, the eligible individual and the eligible individual's cohabiting spouse are solidarily liable in respect of the payment to Retraite Québec of that amount, to the extent that it may reasonably be considered that that amount relates to the application of section 1029.8.61.18 and

that the individual was the eligible individual's cohabiting spouse at the time the payment was made.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 190; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Allocation.

1029.8.61.36. Retraite Québec may allocate any amount to be paid to an individual as or on account of a family allowance for a particular month to the payment of any amount of which the individual is a debtor as a consequence of the application of the following provisions, and give the individual notice thereof:

- (a) the provisions of this division;
- (b) the provisions of the Act respecting family benefits (chapter P-19.1), as they applied in respect of the debtor; and
- (c) the provisions of the Act respecting family assistance allowances (chapter A-17), as they applied in respect of the debtor.

Last resort financial assistance.

Where applicable, the allocation shall be made taking into account the fact that an individual receives a benefit under a financial assistance program provided for in any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1).

History: 2005, c. 1, s. 257; 2007, c. 12, s. 202; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 376.

Provisions not applicable.

1029.8.61.37. Section 1037 and sections 12.1, 13, 15, 15.2, 28, 31.1.1 and 32 of the Tax Administration Act (chapter A-6.002) do not apply in respect of an amount owed by an individual under section 1029.8.61.34.

Restriction.

In addition, the Minister may not institute proceedings before a court or register a legal hypothec in respect of that amount.

History: 2005, c. 1, s. 257; 2010, c. 31, s. 175.

Notice.

1029.8.61.38. Retraite Québec shall notify the Minister where an amount owed by an individual under section 1029.8.61.34 has, after the expiration of the period in which that amount could be or was the subject of a review or of a contestation before the Administrative Tribunal of Québec, become uncollectible by Retraite Québec.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

§4. — *Review and contestation proceedings*

Review.

1029.8.61.39. Retraite Québec may, on application, review any decision it has made.

Application for review.

An application for review must be made within 90 days after the decision has been sent, unless Retraite Québec grants an extension.

Grounds for review.

The application must set out briefly the grounds for review.

History: 2005, c. 1, s. 257; I.N. 2016-01-01 (NCCP); 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Review.

1029.8.61.40. Retraite Québec shall make a decision with dispatch and inform the individual concerned of the individual's right to contest the decision in the manner set out in section 1029.8.61.41.

Reasons.

Any unfavourable decision of Retraite Québec must include reasons.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Contestation.

1029.8.61.41. Any review decision may be contested before the Administrative Tribunal of Québec within 60 days after the decision has been sent.

Contestation.

Moreover, an individual may contest before the Tribunal the decision whose review the individual applied for if Retraite Québec does not make a decision within 90 days after the receipt of the application, subject to the following:

(a) if the individual who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(b) if Retraite Québec considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the individual who applied for the review must be notified of the extension.

History: 2005, c. 1, s. 257; 2005, c. 17, s. 37; O.C. 1021-2005; I.N. 2016-01-01 (NCCP); 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Contestation.

1029.8.61.42. Any contestation in respect of the accuracy of information communicated to Retraite Québec by the Minister that relates to the computation of income, for the purpose of establishing the entitlement of an individual to the payment of an amount in respect of a family allowance, must be brought under the Tax Administration Act (chapter A-6.002).

History: 2005, c. 1, s. 257; 2010, c. 31, s. 175; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

§5. — *Recovery by the Minister***Notice concerning amount payable.**

1029.8.61.43. Where Retraite Québec notifies the Minister in accordance with section 1029.8.61.38, the Minister shall send the individual a notice stating that the amount owing to Retraite Québec by the individual is payable without delay to the Minister upon the sending of the notice.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Amount payable.

1029.8.61.44. Section 1029.8.61.37 does not apply in respect of an amount payable to the Minister under section 1029.8.61.43.

History: 2005, c. 1, s. 257.

Solidary liability in respect of a child assistance payment.

1029.8.61.45. Where, for a taxation year, Retraite Québec has paid an amount as or on account of a family allowance to an individual or has allocated an amount to another of the individual's liabilities, and that amount is greater than the amount that should have been paid or allocated, the individual and the person who, at the end of the year, is the individual's cohabiting spouse are solidarily liable in respect of the payment to the Minister of that excess amount, to the extent that it may reasonably be considered that the excess amount relates to the application of section 1029.8.61.18 and that the person was the individual's cohabiting spouse at the time the payment was made.

Liability not limited.

However, nothing in this section limits the liability of the individual or of the individual's cohabiting spouse for the year, where applicable, under any other provision of this Act.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Assessment.

1029.8.61.46. The Minister may at any time assess the cohabiting spouse of an individual in respect of an amount

payable under section 1029.8.61.45, and this Book applies, with the necessary modifications, to that assessment as if it had been made under Title II.

History: 2005, c. 1, s. 257; 2010, c. 25, s. 180.

Rules applicable in case of solidary liability.

1029.8.61.47. Where an individual and the individual's cohabiting spouse are, under section 1029.8.61.45, solidarily liable in respect of all or part of a liability of the individual, a payment by the individual affects the solidary liability of the cohabiting spouse only to the extent that the payment operates to reduce the individual's liability to an amount less than the amount in respect of which the cohabiting spouse is solidarily liable under section 1029.8.61.45.

History: 2005, c. 1, s. 257.

§6. — *Penal provision***Offences and penalties.**

1029.8.61.48. The following persons are liable to a fine of \$250 to \$1,500:

(a) every person who, in order to obtain the payment of an amount in respect of a family allowance, fails to provide information or provides information knowing it to be false or misleading, or misrepresents a material fact; and

(b) every person who assists or encourages another person to obtain or receive an amount in respect of a family allowance, knowing that the person is not entitled thereto.

Provisions not applicable.

Sections 72 to 78.2 of the Tax Administration Act (chapter A-6.002) do not apply in respect of the offence provided for in the first paragraph.

History: 2005, c. 1, s. 257; 2010, c. 31, s. 175; 2019, c. 14, s. 666.

§7. — *Administrative provisions***Retraite Québec.**

1029.8.61.49. Retraite Québec shall administer the payment of an amount in respect of a family allowance.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Minister responsible.

1029.8.61.50. For the purpose of administering the payment of an amount in respect of a family allowance, Retraite Québec acts under the responsibility of the Minister of Families, Seniors and the Status of Women.

Powers.

For the purposes of such administration, Retraite Québec shall exercise the powers conferred on it by this division, the powers under the Act respecting Retraite Québec (chapter R-26.3) and the powers under the Act respecting the Québec Pension Plan (chapter R-9) as necessary, in particular the power of inquiry provided for under section 30 of that Act.

History: 2005, c. 1, s. 257; 2006, c. 25, s. 14; [Note: The functions and responsibilities of the Minister of Families, Seniors and the Status of Women provided for in this Act have been assigned to the Minister of Families (see Order in Council 685-2010 dated 18 August 2010, (2010) 142 G.O. 2 (French), 3753); 2015, c. 20, s. 37 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Power to ascertain entitlement.

1029.3.61.51. Retraite Québec may require an individual receiving an amount in respect of a family allowance to provide it with documents or information so that it may ascertain whether the individual is entitled to receive that amount.

Suspension of payment.

Retraite Québec may suspend the payment of an amount in respect of a family allowance until it has been provided with the required documents or information if the individual receiving the amount fails to provide the required documents or information before the expiry of 45 days after the date of the request.

Suspension for inquiry.

Retraite Québec may also suspend the payment of an amount in respect of a family allowance for the duration of an inquiry on the individual's eligibility. Retraite Québec shall conduct the inquiry diligently.

Notice.

Retraite Québec shall give written notice of the suspension of payment, setting out the reasons for the suspension.

History: 2005, c. 1, s. 257; 2006, c. 13, s. 191; 2010, c. 25, s. 181; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Amount of less than \$2.

1029.3.61.52. Retraite Québec may decide not to require the payment of an amount of less than \$2 and is not bound to pay such an amount.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Agreements.

1029.3.61.53. Retraite Québec may enter into an agreement with any person, association, corporation or body, and with the Government, or a department or body of the Government.

Agreements.

It may also enter into an agreement with a government in Canada, or a department or agency of such a government.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Borrowings.

1029.3.61.54. Retraite Québec may, as a body responsible for the payment of an amount in respect of a family allowance, borrow sums from the Minister of Finance out of the financing fund established under the Act respecting the Ministère des Finances (chapter M-24.01).

Advances.

The Minister of Finance may advance sums from the Consolidated Revenue Fund to Retraite Québec, with the authorization of the Government and on the conditions it fixes.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Information return.

1029.3.61.55. Retraite Québec must, on or before the last day of February of a year, send to the Minister a return containing the prescribed information in respect of any amount paid to an eligible individual for the preceding year as or on account of a family allowance.

Changes.

Retraite Québec shall inform the Minister of any changes in such information.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Debt.

1029.3.61.56. The Minister may remit all or part of a debt if the Minister considers that, in the circumstances, recovery of the debt would be inappropriate.

Signature.

An employee of Retraite Québec, who is authorized by the Minister, may sign the documents required for the purposes of the first paragraph.

History: 2005, c. 1, s. 257; 2011, c. 6, s. 195; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Necessary sums.

1029.3.61.57. The sums necessary for the payment of the amounts determined in respect of a family allowance under

this division shall be taken out of the tax revenues collected under this Act.

History: 2005, c. 1, s. 257; 2019, c. 14, s. 666.

Report of Retraite Québec.

1029.8.61.58. Retraite Québec must, on or before 30 June of each year, report on its administration of this division to the Minister of Families, Seniors and the Status of Women. The report of Retraite Québec must be tabled by the Minister of Families, Seniors and the Status of Women within 15 days before the National Assembly, or, if the Assembly is not sitting, within 15 days of resumption.

Information.

The report must contain all the information required by the Minister of Families, Seniors and the Status of Women.

History: 2005, c. 1, s. 257; 2006, c. 25, s. 14; [Note: The functions and responsibilities of the Minister of Families, Seniors and the Status of Women provided for in this Act have been assigned to the Minister of Families (see Order in Council 685-2010 dated 18 August 2010, (2010) 142 G.O. 2 (French), 3753); 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Advisory committee.

1029.8.61.59. An advisory committee is formed of representatives from the Ministère de la Famille, des Aînés et de la Condition féminine, Retraite Québec and the Agence du revenu du Québec to oversee the administration of the payment of amounts in respect of a family allowance.

Members.

The advisory committee is composed of six members, of whom three are appointed by the Minister of Families, Seniors and the Status of Women and three by the Minister of Revenue.

Members.

Among the members appointed by the Minister of Families, Seniors and the Status of Women, two must be members of the personnel of Retraite Québec.

History: 2005, c. 1, s. 257; 2006, c. 25, s. 14; [Note: The functions and responsibilities of the Minister of Families, Seniors and the Status of Women provided for in this Act have been assigned to the Minister of Families (see Order in Council 685-2010 dated 18 August 2010, (2010) 142 G.O. 2 (French), 3753); 2010, c. 31, s. 175; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

Administration.

1029.8.61.60. The administration of the payment of an amount in respect of a family allowance by Retraite Québec

under this division is done on behalf of the Minister of Revenue.

History: 2005, c. 1, s. 257; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 666.

DIVISION II.11.3

CREDIT FOR INFORMAL CAREGIVERS WHO HOUSE PERSONS OF FULL AGE

§1. — *Interpretation*

Definitions:

1029.8.61.61. In this division,

“eligible relative”;

“eligible relative” of an individual means a person who, during the minimum housing period for a taxation year in relation to the individual, is resident in Canada and

(a) is the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle or great-aunt of the individual or of the individual’s spouse or any other direct ascendant of the individual or of the individual’s spouse; and

(b) has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is significantly restricted if the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living, unless the person has reached 70 years of age or over or would have reached that age had the person not died before the end of the year, and is the father, mother, uncle, aunt, grandfather, grandmother, great-uncle or great-aunt of the individual or of the individual’s spouse or any other direct ascendant of the individual or of the individual’s spouse;

“minimum housing period”.

“minimum housing period” of a particular person for a taxation year in relation to an individual is a housing period of the particular person of at least

(a) 365 consecutive days commencing in the year or in the preceding year, if

i. the particular person reached, before the end of the year, 70 years of age or would have reached that age before that time had the particular person not died in the year, and

ii. the period includes at least 183 days in the year; or

(b) 90 consecutive days included in the year, if

i. the particular person is, during the period, 18 years of age or over,

ii. the period is included in a housing period of the particular person (in this section referred to as the “particular housing

period”), of at least 365 consecutive days commencing in the year or in the preceding year,

iii. the particular housing period includes at least 183 days in the year,

iv. throughout the particular housing period, the particular person ordinarily lives with the individual or another individual in a self-contained domestic establishment and has a severe and prolonged impairment in mental or physical functions the effects of which are such that the particular person’s ability to perform a basic activity of daily living is markedly restricted or that the particular person’s ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living, and

v. throughout the period during which the particular person ordinarily lives in the self-contained domestic establishment with the individual or the other individual,

(1) the self-contained domestic establishment is maintained by the individual or the other individual,

(2) the individual or the individual’s spouse or the other individual or the other individual’s spouse, as the case may be, alone or jointly with another person other than the particular person, is the owner, lessee or sublessee of the self-contained domestic establishment, and

(3) the particular person is resident in Canada and is referred to in paragraph *a* of the definition of “eligible relative” in respect of the individual or the individual’s spouse or the other individual or the other individual’s spouse, as the case may be.

History: 2005, c. 38, s. 285; 2006, c. 36, s. 199; 2009, c. 5, s. 457; 2011, c. 34, s. 96.

Deceased spouse.

1029.8.61.62. For the purposes of the definition of “eligible relative” in section 1029.8.61.61, a person who, immediately before death, was the spouse of an individual is deemed to be a spouse of the individual.

History: 2005, c. 38, s. 285.

Severe and prolonged impairment in mental or physical functions.

1029.8.61.63. The first and second paragraphs of section 752.0.17 apply for the purpose of determining whether a person has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is significantly restricted if the cumulative effect of those

restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living.

Information.

If an individual is deemed to have paid to the Minister an amount under section 1029.8.61.64 for a taxation year in respect of a particular person referred to in paragraph *b* of section 1029.8.61.69, any person referred to in section 1029.8.61.64 or in that paragraph *b* shall, on request in writing by the Minister for information with respect to the particular person’s impairment and its effect on the particular person or with respect to the therapy that is, where applicable, required to be administered to the particular person, provide the information so requested in writing.

History: 2005, c. 38, s. 285; 2006, c. 36, s. 200.

§2. — Credit

Tax credit for informal caregivers housing a person of full age.

1029.8.61.64. An individual who is resident in Québec at the end of 31 December of a taxation year and who, during the year, is not dependent upon another individual, is deemed to have paid to the Minister, on the individual’s balance-due day for that taxation year, on account of the individual’s tax payable under this Part for that taxation year, an amount equal to the aggregate of all amounts each of which is, subject to sections 1029.8.61.66 and 1029.8.61.67, an amount determined, in respect of each person who, throughout the minimum housing period of that person for the year in relation to the individual, is an eligible relative of the individual and who, throughout that period, ordinarily lives with the individual in a self-contained domestic establishment which, throughout that period, is maintained by the individual, alone or jointly with another person, and of which the individual or the individual’s spouse, alone or jointly with another person other than the eligible relative, is the owner, lessee or sublessee throughout that period, by the formula

$A + B.$

Interpretation.

In the formula in the first paragraph,

(a) A is an amount of \$663; and

(b) B is an amount equal to the amount by which \$542 exceeds 16% of the eligible relative’s income for the year that exceeds \$24,105.

Deceased individual.

For the purposes of this section, an individual who was resident in Québec immediately before death is deemed to be

resident in Québec at the end of 31 December of the year of the individual's death.

History: 2005, c. 38, s. 285; 2011, c. 34, s. 97; 2019, c. 14, s. 377.

Dependent.

1029.8.61.65. For the purposes of section 1029.8.61.64, a person is dependent upon an individual during a taxation year if the individual is not the person's spouse and has deducted, for the year, in respect of the person, an amount under any of sections 752.0.1 to 752.0.7, 752.0.11 to 752.0.18.0.1 and 776.41.14.

History: 2005, c. 38, s. 285; 2009, c. 5, s. 458.

Special rule for the year in which an eligible relative reaches 18 years of age.

1029.8.61.66. The amount determined by the formula in the first paragraph of section 1029.8.61.64, in respect of each person who is an eligible relative of an individual and has reached 18 years of age in a taxation year, and taken into account for the purpose of computing the amount that the individual is deemed to have paid to the Minister under section 1029.8.61.64 for the year on account of the individual's tax payable under this Part is to be replaced by an amount equal to the proportion of that amount that the number of months in the year that follow the month in which that person reaches 18 years of age is of 12.

History: 2005, c. 38, s. 285.

Reduction of the tax credit.

1029.8.61.67. The amount determined by the formula in the first paragraph of section 1029.8.61.64, in respect of a person who is an eligible relative of an individual, and taken into account for the purpose of computing the amount that the individual is deemed to have paid to the Minister under section 1029.8.61.64 for a taxation year is to be reduced by an amount that is the portion of a financial assistance benefit received in that year by the individual or, as the case may be, by the individual's spouse for the year, in respect of that person, under any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), that is attributable to the amount of the increase for a dependent child of full age who is handicapped and attends an educational institution at the secondary level in general education provided for in the second paragraph of section 75 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1).

History: 2005, c. 38, s. 285; 2007, c. 12, s. 203; 2019, c. 14, s. 378.

1029.8.61.68. (*Repealed*).

History: 2005, c. 38, s. 285; 2007, c. 12, s. 204; 2010, c. 31, s. 175; 2011, c. 34, s. 98.

Certification.

1029.8.61.69. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.64 for a taxation year in respect of a particular person unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable by the individual for the year under this Part, the following documents:

(a) the prescribed form on which

i. the individual certifies that, throughout the minimum housing period of the particular person for the year in relation to the individual, the individual ordinarily lived with the particular person in the self-contained domestic establishment referred to in subparagraph ii, and

ii. the individual or the individual's spouse certifies that, throughout the period referred to in subparagraph i, the individual or the individual's spouse maintained a self-contained domestic establishment, alone or jointly with another person, of which the individual or the individual's spouse, alone or jointly with another person other than the particular person, was the owner, lessee or sublessee throughout that period; and

(b) if the particular person has a severe and prolonged impairment in mental or physical functions the effects of which are such that

i. the particular person's ability to perform a basic activity of daily living is markedly restricted and the minimum housing period of the particular person for the year in relation to the individual is the period described in paragraph *b* of the definition of "minimum housing period" in section 1029.8.61.61, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the particular person has a sight impairment, a physician, a specialized nurse practitioner or an optometrist, within the meaning of that section, or, where the particular person has a speech impairment, a physician, a specialized nurse practitioner or a speech-language pathologist, within the meaning of that section, or, where the particular person has a hearing impairment, a physician, a specialized nurse practitioner or an audiologist, within the meaning of that section, or, where the particular person has an impairment with respect to the particular person's ability in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, or, where the particular person has an impairment with respect to the particular person's ability in walking, a physician, a specialized nurse practitioner, an occupational therapist or a physiotherapist, within the meaning of that section, or, where the particular person has an impairment with respect to the particular person's ability in mental functions necessary for everyday life, a physician, a specialized nurse practitioner or a

psychologist, within the meaning of that section, certifies that the particular person has such an impairment, or

ii. the particular person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living and the minimum housing period of the particular person for the year in relation to the individual is the period described in paragraph *b* of the definition of "minimum housing period" in section 1029.8.61.61, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the particular person has an impairment with respect to the particular person's ability in walking or in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, certifies that the particular person has such an impairment.

History: 2005, c. 38, s. 285; 2006, c. 36, s. 201; 2011, c. 34, s. 99; 2019, c. 14, s. 379.

Limitation.

1029.8.61.70. If, for a taxation year, more than one individual could, but for this section, be deemed to have paid to the Minister an amount under section 1029.8.61.64 for the year in respect of the same person, no amount greater than the amount provided for in that section, for the year, in respect of that person shall be deemed to have been paid to the Minister, for the year, under that section in respect of that person.

Determination by the Minister.

If those individuals cannot agree as to what portion of the amount each would, but for this section, be deemed to have paid to the Minister, the Minister may determine that portion of the amount for the year.

History: 2005, c. 38, s. 285.

DIVISION II.11.4 CREDIT FOR PERSONS PROVIDING RESPITE TO INFORMAL CAREGIVERS

§1. — *Interpretation and general*

Definitions:

1029.8.61.71. In this division,

"care recipient";

"care recipient" means a person who has a significant long-term disability and for whom an intervention plan or an individualized service plan has been developed by a health and social services centre governed by the Act respecting health services and social services (chapter S-4.2) or an institution governed by the Act respecting health services and

social services for Cree Native persons (chapter S-5) and in respect of whom

(a) the conditions set out in subparagraphs *a* to *b.1* of the first paragraph of section 752.0.14 are met, if the person is 18 years of age or over; or

(b) another person receives an amount to which subparagraph *b* of the second paragraph of section 1029.8.61.18 refers;

"eligible individual";

"eligible individual" for a taxation year in relation to a care recipient means an individual (other than an excluded individual for the year, in relation to the care recipient) who, in the year, provides a total of at least 200 hours of volunteer respite services in Québec to an informal caregiver for the year in respect of the care recipient;

"excluded individual";

"excluded individual" for a taxation year in relation to a care recipient means

(a) the care recipient's spouse;

(b) a person who, but for section 2, is the care recipient's father or mother or who, but for section 1, is the care recipient's child, brother or sister or, if applicable, such a person's spouse; or

(c) a person who is an eligible relative, within the meaning of section 1029.8.61.61, of the informal caregiver for the year, in relation to the care recipient, in respect of whom the informal caregiver is deemed to have paid to the Minister an amount on account of the informal caregiver's tax payable under this Part for the year under section 1029.8.61.64;

"informal caregiver";

"informal caregiver" for a taxation year in relation to a care recipient means a person who lives with the care recipient throughout the period, within the year, during which volunteer respite services are provided to the informal caregiver by an eligible individual in relation to the care recipient, and who is the care recipient's spouse or a person in respect of whom the care recipient is a person referred to in paragraph *a* of the definition of "eligible relative" in section 1029.8.61.61;

"volunteer respite services".

"volunteer respite services" means unremunerated services provided by an individual in the home of a care recipient that consist in providing care to the care recipient, performing tasks that are normally carried out by the informal caregiver, in relation to the care recipient, freeing the informal caregiver from certain daily tasks so that the informal caregiver can be with the care recipient at all times, or providing any other similar service in order to provide respite to the informal caregiver.

Rule applicable to informal caregiver.

For the purposes of the definition of "informal caregiver" in the first paragraph, if, for a taxation year, more than one

person would be considered, but for this paragraph, to be an informal caregiver in relation to the same care recipient, the person who is the care recipient's main support is deemed, for the year, to be the care recipient's only informal caregiver.

Rule applicable to eligible individual.

For the purposes of the definition of "eligible individual" in the first paragraph, if, in a taxation year, an individual provides volunteer respite services in respect of more than one care recipient in the same place, the number of hours devoted to those services must be divided equally among the care recipients.

History: 2009, c. 5, s. 459; 2019, c. 14, s. 380.

Information.

1029.8.61.72. If an individual is deemed to have paid to the Minister an amount under section 1029.8.61.73 for a taxation year in recognition of volunteer respite services that the individual provided to an informal caregiver in respect of a care recipient, the informal caregiver or care recipient shall, on request in writing by the Minister for information with respect to the care recipient's impairment or developmental disability and its effects on the care recipient or with respect to any therapy that is required to be administered to the care recipient, provide the information so requested in writing.

History: 2009, c. 5, s. 459.

§2. — *Credit*

Tax credit for volunteer respite services.

1029.8.61.73. An eligible individual for a taxation year who is resident in Québec at the end of 31 December of the year is deemed to have paid to the Minister, on the individual's balance-due day for that year, on account of the individual's tax payable under this Part for the year, an amount equal to the aggregate of all amounts each of which is an amount that is attributed to the individual or that is deemed to be attributed to the individual for the year in accordance with section 1029.8.61.74 in recognition of volunteer respite services that the individual provided during the year to an informal caregiver in respect of a care recipient.

Information return.

An eligible individual may be deemed to have paid to the Minister an amount under the first paragraph for a taxation year in respect of volunteer respite services provided to an informal caregiver, in relation to a care recipient, only if the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to so file if tax were payable under this Part by the individual for the year, the information

return sent to the individual by the informal caregiver for the year in relation to the care recipient.

History: 2009, c. 5, s. 459.

Amount attributed for volunteer respite services.

1029.8.61.74. An informal caregiver for a taxation year in relation to a care recipient may attribute an amount for the year, which may not exceed the amount determined under the second paragraph, to an eligible individual for the year, in relation to the care recipient, provided the aggregate of all amounts each of which is an amount so attributed by the informal caregiver for the year to an eligible individual in relation to the care recipient does not exceed \$1,500.

Deemed amount.

The amount to which the first paragraph refers that may be attributed to an eligible individual is equal to

(a) \$250 where the eligible individual provided volunteer respite services in the year to the informal caregiver, in relation to the care recipient, for a total of at least 200 hours and less than 300 hours;

(b) \$500 where the eligible individual provided volunteer respite services in the year to the informal caregiver, in relation to the care recipient, for a total of at least 300 hours and less than 400 hours; and

(c) \$750 where the eligible individual provided volunteer respite services in the year to the informal caregiver, in relation to the care recipient, for a total of at least 400 hours.

Deemed amount.

Subject to the fourth paragraph, where the amount otherwise attributed by an informal caregiver to an eligible individual under the first paragraph exceeds the amount determined in respect of the eligible individual in accordance with the second paragraph, the amount attributed to the eligible individual is deemed to be equal to the amount so determined.

Idem.

Where the aggregate of all amounts each of which is an amount otherwise attributed under the first paragraph or deemed to be attributed under the third paragraph, as the case may be, for a taxation year by an informal caregiver to an eligible individual in relation to a care recipient exceeds \$1,500, the amount so attributed or deemed to be attributed by the informal caregiver to an eligible individual for the year in relation to the care recipient is deemed to be equal to the amount determined by the Minister for the year in respect of the eligible individual in relation to the care recipient.

History: 2009, c. 5, s. 459; 2019, c. 14, s. 381.

Exempt individual.

1029.8.61.75. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.73 for a taxation year if the individual is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2009, c. 5, s. 459; 2010, c. 31, s. 175.

DIVISION II.11.5**CREDIT FOR RESPITE EXPENSES OF INFORMAL CAREGIVERS**§1. — *Interpretation and general***Definitions:**

1029.8.61.76. In this division,

“eligible relative”;

“eligible relative” of an individual means a person at least 18 years of age who, because of a significant disability, cannot be left without supervision and who

(*a*) is the individual’s spouse or the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle or great-aunt of the individual or of the individual’s spouse or any other direct ascendant of the individual or of the individual’s spouse; and

(*b*) is either

i. a person in respect of whom the conditions set out in subparagraphs *a* to *b.1* of the first paragraph of section 752.0.14 are met, or

ii. a person who is receiving palliative care;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”;

“family income” of an individual for a taxation year means the amount by which \$50,000 is exceeded by the aggregate of the income of the individual for the year and the income, for the year, of the individual’s eligible spouse for the year;

“recognized diploma”;

“recognized diploma” means

(*a*) a diploma of vocational studies in home care assistance;

(*b*) a diploma of vocational studies in home care and family and social assistance;

(*c*) a diploma of vocational studies in assistance in health care establishments;

(*d*) a diploma of vocational studies in assistance to patients or residents in health care establishments;

(*e*) a diploma of vocational studies in health, assistance and nursing;

(*f*) a diploma of college studies in nursing;

(*g*) a bachelor’s degree in nursing; or

(*h*) any other diploma that enables an individual to act as

i. a visiting homemaker,

ii. a home support worker,

iii. a family and social auxiliary,

iv. a nursing attendant,

v. a health care aide,

vi. a beneficiary care attendant,

vii. a nursing assistant, or

viii. a nurse;

“specialized respite services”.

“specialized respite services” means the services by which a person who holds a recognized diploma provides, in place of an individual, home care to an eligible relative of the individual.

Recognized diploma deemed awarded.

For the purposes of the definition of “specialized respite services” in the first paragraph, a person is deemed to have been awarded a recognized diploma if

(*a*) the care given to the individual’s eligible relative by the person is in addition to care the person is required to give the eligible relative, in accordance with the direct allowance program administered by the Minister of Health and Social Services, within the framework of the person’s participation in implementing an intervention plan or an individualized service plan developed, in respect of the eligible relative, by an institution referred to in Title I of Part II of the Act respecting health services and social services (chapter S-4.2) or by an institution within the meaning of section 1 of the Act respecting health services and social services for Cree Native persons (chapter S-5); or

(*b*) the person holds employment with an entity that may be called upon to provide specialized respite services to an individual under an intervention plan or an individualized service plan established by an institution referred to in subparagraph *a*.

History: 2009, c. 15, s. 326.

Deceased spouse.

1029.8.61.77. For the purposes of the definition of “eligible relative” in the first paragraph of section 1029.8.61.76, a person who, immediately before

death, was the spouse of an individual is deemed to be a spouse of the individual.

History: 2009, c. 15, s. 326.

Information.

1029.8.61.78. For the purpose of determining whether an individual is deemed to have paid an amount to the Minister under section 1029.8.61.80 for a taxation year in respect of an eligible relative, the eligible relative shall, on request in writing by the Minister for information with respect to the eligible relative's impairment or the palliative care the eligible relative is receiving and its effects on the eligible relative or with respect to any therapy that is required to be administered to the eligible relative, provide the information so requested in writing.

History: 2009, c. 15, s. 326.

Individual not resident in Canada.

1029.8.61.79. For the purposes of the definition of "family income" in the first paragraph of section 1029.8.61.76, the income for a taxation year of an individual who was not resident in Canada throughout the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 2009, c. 15, s. 326.

§2. — *Credit*

Tax credit for respite expenses of informal caregivers.

1029.8.61.80. An individual who is resident in Québec at the end of 31 December of a taxation year is deemed to have paid to the Minister, on the individual's balance-due day for that year, on account of the individual's tax payable under this Part for the year, an amount equal to the amount by which 30% of the lesser of the following amounts exceeds 3% of the individual's family income for the year:

(a) the aggregate of all amounts each of which is an amount paid by the individual in respect of expenses incurred in the year for specialized respite services provided to a person who, when those expenses are incurred, is an eligible relative of the individual and ordinarily lives with the individual; and

(b) \$5,200.

Proof of payment.

No individual may be deemed to have paid an amount to the Minister under the first paragraph for a taxation year in respect of a particular amount paid in respect of expenses incurred in the year for specialized respite services, unless proof of payment of the particular amount is provided by

filing with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to so file if tax were payable by the individual for the year under this Part, one or more receipts issued by the payee and containing, if the payee is an individual, the individual's Social Insurance Number.

Deceased individual.

For the purposes of this section, an individual who was resident in Québec immediately before death is deemed to be resident in Québec at the end of 31 December of the year of the individual's death.

History: 2009, c. 15, s. 326.

Excluded expenses.

1029.8.61.81. For the purposes of section 1029.8.61.80, the expenses incurred by an individual for specialized respite services do not include

(a) an amount in respect of which a taxpayer is or was entitled to a reimbursement, or another form of assistance, except to the extent that the amount is included in computing the income of any taxpayer and is not deductible in computing that taxpayer's income or taxable income;

(b) an amount that was taken into account in computing an amount deducted in computing an individual's tax payable under this Part; and

(c) an amount that was taken into account in computing an amount that an individual is deemed to have paid to the Minister on account of the individual's tax payable under this chapter, but otherwise than under this division.

History: 2009, c. 15, s. 326; 2013, c. 10, s. 136.

Multiple individuals.

1029.8.61.82. For the purpose of applying this division to a taxation year for which two or more individuals could, but for this section, be deemed under section 1029.8.61.80 to have paid an amount to the Minister in respect of expenses incurred in the year for specialized respite services provided to the same person, that person is deemed, for any time at which an amount has been incurred in respect of those expenses, to be the eligible relative solely of the individual from among those individuals who is the eligible relative's main support for the year.

History: 2009, c. 15, s. 326.

DIVISION II.11.6
CREDIT FOR INFORMAL CAREGIVERS
CO-RESIDING WITH PERSONS OF FULL AGE

§1. — *Interpretation and general*

Definitions:

1029.8.61.83. In this division,

“eligible relative”;

“eligible relative” of an individual means a person who

(a) is the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle or great-aunt of the individual or of the individual’s spouse or any other direct ascendant of the individual or of the individual’s spouse;

(b) has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living; and

(c) is unable to live alone because of the person’s impairment;

“minimum co-residency period”.

“minimum co-residency period” of a person for a taxation year is a co-residency period of the person of at least 365 consecutive days commencing in the year or in the preceding year, if

(a) the period includes a period of at least 183 days in the year (in this definition referred to as the “particular period”); and

(b) the person is, during the particular period, 18 years of age or over.

Deceased spouse.

For the purposes of the definition of “eligible relative” in the first paragraph, a person who, immediately before death, was the spouse of an individual is deemed to be a spouse of the individual.

History: 2011, c. 34, s. 100.

Severe and prolonged impairment in mental or physical functions.

1029.8.61.84. The first and second paragraphs of section 752.0.17 apply for the purpose of determining whether a person has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is

significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living.

Information.

For the purpose of determining whether an individual is deemed to have paid an amount to the Minister under section 1029.8.61.85 for a taxation year in respect of an eligible relative, any person referred to in section 1029.8.61.85 shall, on request in writing by the Minister for information with respect to the eligible relative’s impairment and its effect on the eligible relative or with respect to the therapy that is, if applicable, required to be administered to the eligible relative, provide the information so requested in writing.

History: 2011, c. 34, s. 100.

§2. — *Credit*

Tax credit for informal caregivers co-residing with a person of full age.

1029.8.61.85. An individual who is resident in Québec at the end of 31 December of a taxation year and who, during the year, is not dependent upon another individual, is deemed to have paid to the Minister, on the individual’s balance-due day for that taxation year, on account of the individual’s tax payable under this Part for that taxation year, an amount equal to the aggregate of all amounts each of which is, subject to sections 1029.8.61.88 and 1029.8.61.89, an amount determined, in respect of each person who, throughout the minimum co-residency period of that person for the year, is an eligible relative of the individual and who, throughout that period, ordinarily lives with the individual in a self-contained domestic establishment of which the person or the person’s spouse, alone or jointly with another person, is the owner, lessee or sublessee throughout that period, by the formula

A + B.

Interpretation.

In the formula in the first paragraph,

(a) A is an amount of \$663; and

(b) B is an amount equal to the amount by which \$542 exceeds 16% of the eligible relative’s income for the year that exceeds \$24,105.

Deceased individual.

For the purposes of this section, an individual who was resident in Québec immediately before death is deemed to be resident in Québec at the end of 31 December of the year of the individual’s death.

History: 2011, c. 34, s. 100; 2019, c. 14, s. 382.

Main support.

1029.8.61.86. Where, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister for the year under section 1029.8.61.85 in respect of the same person, that person is deemed to be the eligible relative solely of the individual from among those individuals who is the person's main support for the year.

History: 2011, c. 34, s. 100.

Dependant.

1029.8.61.87. For the purposes of section 1029.8.61.85, a person is dependent upon an individual during a taxation year if the individual is not the person's spouse and has deducted, for the year, in respect of the person, an amount under any of sections 752.0.1 to 752.0.7, 752.0.11 to 752.0.18.0.1 and 776.41.14.

History: 2011, c. 34, s. 100.

Special rule for the year in which an eligible relative reaches 18 years of age.

1029.8.61.88. The amount determined by the formula in the first paragraph of section 1029.8.61.85, in respect of each person who is an eligible relative of an individual and has reached 18 years of age in a taxation year, and taken into account for the purpose of computing the amount that the individual is deemed to have paid to the Minister under section 1029.8.61.85 for the year on account of the individual's tax payable under this Part is to be replaced by an amount equal to the proportion of that amount that the number of months in the year that follow the month in which that person reaches 18 years of age is of 12.

History: 2011, c. 34, s. 100.

Reduction of the tax credit.

1029.8.61.89. The amount determined by the formula in the first paragraph of section 1029.8.61.85, in respect of a person who is an eligible relative of an individual, and taken into account for the purpose of computing the amount that the individual is deemed to have paid to the Minister under section 1029.8.61.85 for a taxation year is to be reduced by an amount that is the portion of a financial assistance benefit received in that year by the individual or, as the case may be, by the individual's spouse for the year, in respect of that person, under any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), that is attributable to the amount of the increase for a dependent child of full age who is handicapped and attends an educational institution at the secondary level in general education provided for in the second paragraph of section 75 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1).

History: 2011, c. 34, s. 100; 2019, c. 14, s. 383.

Certificates.

1029.8.61.90. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.85 for a taxation year in respect of a person unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable by the individual for the year under this Part, the following documents:

(a) the prescribed form on which

i. the individual certifies that, throughout the minimum co-residency period of the person for the year, the individual ordinarily lived with that person in a self-contained domestic establishment, and

ii. the individual certifies that, throughout the period referred to in subparagraph i, the person or the person's spouse, alone or jointly with another person, is the owner, lessee or sublessee of the self-contained domestic establishment referred to in subparagraph i;

(b) if the person's severe and prolonged impairment in mental or physical functions is an impairment whose effects are such that

i. the person's ability to perform a basic activity of daily living is markedly restricted, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the person has a sight impairment, a physician, a specialized nurse practitioner or an optometrist, within the meaning of that section, or, where the person has a speech impairment, a physician, a specialized nurse practitioner or a speech-language pathologist, within the meaning of that section, or, where the person has a hearing impairment, a physician, a specialized nurse practitioner or an audiologist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in walking, a physician, a specialized nurse practitioner, an occupational therapist or a physiotherapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in mental functions necessary for everyday life, a physician, a specialized nurse practitioner or a psychologist, within the meaning of that section, certifies that the person has such an impairment, or

ii. the person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of

section 752.0.18, or, where the person has an impairment with respect to the person's ability in walking or in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, certifies that the person has such an impairment; and

(c) the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, certifies that the person is unable to live alone because of the person's impairment.

History: 2011, c. 34, s. 100; 2019, c. 14, s. 384.

DIVISION II.11.7 CREDIT FOR INFORMAL CAREGIVERS COHABITING WITH A SPOUSE

§1. — *Interpretation and general*

Definitions:

1029.8.61.91. In this division,

“eligible relative”;

“eligible relative” of an individual means a person who

(a) is the individual's spouse;

(b) has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person's ability to perform a basic activity of daily living is markedly restricted or that the person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living; and

(c) is unable to live alone because of the person's impairment;

“minimum cohabitation period”;

“minimum cohabitation period” of a person for a taxation year is a cohabitation period of the person of at least 365 consecutive days commencing in the year or in the preceding year, if

(a) the period includes at least 183 days in the year; and

(b) the person has, before the end of the year, reached 70 years of age or, if the person died in the year, had reached that age at the time of death;

“private seniors' residence”.

“private seniors' residence” has the meaning that would be assigned by section 1029.8.61.1 if the definition of that expression were read without reference to “for a particular month” and “, at the beginning of the particular month.”

History: 2011, c. 34, s. 100; 2013, c. 10, s. 137.

Severe and prolonged impairment in mental or physical functions.

1029.8.61.92. The first and second paragraphs of section 752.0.17 apply for the purpose of determining whether a person has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person's ability to perform a basic activity of daily living is markedly restricted or that the person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living.

Information.

For the purpose of determining whether an individual is deemed to have paid an amount to the Minister under section 1029.8.61.93 for a taxation year in respect of an eligible relative, any person referred to in section 1029.8.61.93 shall, on request in writing by the Minister for information with respect to the eligible relative's impairment and its effect on the eligible relative or with respect to the therapy that is, if applicable, required to be administered to the eligible relative, provide the information so requested in writing.

History: 2011, c. 34, s. 100.

§2. — *Credit*

Tax credit for informal caregivers cohabiting with a spouse.

1029.8.61.93. An individual who is resident in Québec at the end of 31 December of a taxation year and who, during the year, is not dependent upon another individual, is deemed to have paid to the Minister, on the individual's balance-due day for that taxation year, on account of the individual's tax payable under this Part for that taxation year, an amount equal to \$1,032 in respect of a person who, throughout the minimum cohabitation period of that person for the year, is an eligible relative of the individual and who, throughout that period, ordinarily lives with the individual in a self-contained domestic establishment (other than a self-contained domestic establishment situated in a private seniors' residence, in a facility maintained by a private institution not under agreement that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2), or in a public network facility within the meaning of section 1029.8.61.1) of which the individual or the eligible relative, alone or jointly with another person, is the owner, lessee or sublessee throughout that period.

Deceased individual.

For the purposes of this section, an individual who was resident in Québec immediately before death is deemed to be

resident in Québec at the end of 31 December of the year of the individual's death.

History: 2011, c. 34, s. 100; 2013, c. 10, s. 139; 2017, c. 1, s. 303; 2019, c. 14, s. 385.

Dependant.

1029.8.61.94. For the purposes of section 1029.8.61.93, a person is dependent upon an individual during a taxation year if the individual is not the person's spouse and has deducted, for the year, in respect of the person, an amount under any of sections 752.0.1 to 752.0.7, 752.0.11 to 752.0.18.0.1 and 776.41.14.

History: 2011, c. 34, s. 100.

Restriction.

1029.8.61.94.1. For the purposes of section 1029.8.61.93, where, but for this section, two persons would be eligible relatives of each other and each person would be deemed to have paid to the Minister, on account of the person's tax payable for a taxation year, an amount under section 1029.8.61.93 in respect of the other person, only one of them may be considered to be the eligible relative of an individual.

History: 2015, c. 21, s. 479.

Restriction.

1029.8.61.95. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.93 for a taxation year in respect of a person, if the individual or the person is an eligible relative, within the meaning of section 1029.8.61.61 or 1029.8.61.83, in respect of whom another individual is deemed to have paid an amount to the Minister for the year on account of the other individual's tax payable under this Part under section 1029.8.61.64 or 1029.8.61.85.

History: 2011, c. 34, s. 100.

Certificates.

1029.8.61.96. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.93 for a taxation year in respect of a person unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable by the individual for the year under this Part, the following documents:

(a) the prescribed form on which

i. the individual certifies that, throughout the minimum cohabitation period of the person for the year, the individual ordinarily lived with that person in a self-contained domestic establishment (other than such an establishment situated in a private seniors' residence, in a facility maintained by a private institution not under agreement that operates a

residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2), or in a public network facility within the meaning of section 1029.8.61.1), and

ii. the individual certifies that, throughout the period referred to in subparagraph i, the individual or the individual's spouse, alone or jointly with another person, is the owner, lessee or sublessee of the self-contained domestic establishment referred to in subparagraph i;

(b) if the person's severe and prolonged impairment in mental or physical functions is an impairment whose effects are such that

i. the person's ability to perform a basic activity of daily living is markedly restricted, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the person has a sight impairment, a physician, a specialized nurse practitioner or an optometrist, within the meaning of that section, or, where the person has a speech impairment, a physician, a specialized nurse practitioner or a speech-language pathologist, within the meaning of that section, or, where the person has a hearing impairment, a physician, a specialized nurse practitioner or an audiologist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in walking, a physician, a specialized nurse practitioner, an occupational therapist or a physiotherapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in mental functions necessary for everyday life, a physician, a specialized nurse practitioner or a psychologist, within the meaning of that section, certifies that the person has such an impairment, or

ii. the person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the person has an impairment with respect to the person's ability in walking or in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, certifies that the person has such an impairment; and

(c) the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, certifies that the person is unable to live alone because of the person's impairment.

History: 2011, c. 34, s. 100; 2013, c. 10, s. 140; 2019, c. 14, s. 386.

DIVISION II.11.7.1**CREDIT FOR INFORMAL CAREGIVERS OF PERSONS OF FULL AGE WITH NO COHABITATION REQUIREMENT**§1. — *Interpretation and general rules***Definitions :****1029.8.61.96.1.** In this division,**“eligible relative”;**

“eligible relative” of an individual means a person in respect of whom the following conditions are met:

(a) the person is the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle or great-aunt of the individual or of the individual’s spouse or any other direct ascendant of the individual or of the individual’s spouse;

(b) the person has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living;

(c) the person needs assistance to perform a basic activity of daily living because of the person’s impairment;

(d) the housing unit that is the person’s principal place of residence is situated in Québec; and

(e) that housing unit is not situated in a private seniors’ residence, in a facility maintained by a private institution not under agreement that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2), or in a public network facility;

“minimum period of support”;

“minimum period of support” of a person by an individual for a taxation year means a period of at least 365 consecutive days commencing in the year or in the preceding year, during which the individual provides assistance to that person, gratuitously and on a regular and constant basis, by assisting that person in performing a basic activity of daily living where

(a) the period includes at least 183 days in the year; and

(b) the person is, during that period, 18 years of age or over;

“private seniors’ residence”;

“private seniors’ residence” has the meaning that would be assigned by section 1029.8.61.1 if the definition of that expression were read without reference to “for a particular month” and “, at the beginning of the particular month,”;

“public network facility”.

“public network facility” has the meaning assigned by the first paragraph of section 1029.8.61.1.

Death of the spouse.

For the purposes of the definition of “eligible relative” in the first paragraph, a person who, immediately before death, was the spouse of an individual is deemed to be a spouse of the individual.

History: 2019, c. 14, s. 387.

Severe and prolonged impairment in mental or physical functions.

1029.8.61.96.2. The first and second paragraphs of section 752.0.17 apply for the purpose of determining whether a person has a severe and prolonged impairment in mental or physical functions the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted or that the person’s ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living.

Information.

For the purpose of determining whether an individual is deemed to have paid an amount to the Minister under section 1029.8.61.96.3 for a taxation year in respect of an eligible relative, any person referred to in section 1029.8.61.96.3 shall, on request in writing by the Minister for information with respect to the eligible relative’s impairment and its effect on the eligible relative or with respect to the therapy that is, if applicable, required to be administered to the eligible relative, provide the information so requested in writing.

History: 2019, c. 14, s. 387.

§2. — *Credit***Credit.**

1029.8.61.96.3. An individual who is resident in Québec at the end of 31 December of a taxation year and who, during the year, is not dependent upon another individual, is deemed to have paid to the Minister, on the individual’s balance-due day for that taxation year, on account of the individual’s tax payable under this Part for that taxation year, an amount equal to the aggregate of all amounts each of which is—in respect of each person who, throughout the person’s minimum period of support by the individual for the year, is an eligible relative of the individual—the amount by which \$542 exceeds 16% of the eligible relative’s income for the year that exceeds \$24,105.

Deceased individual.

For the purposes of this section, an individual who was resident in Québec immediately before death is deemed to be resident in Québec at the end of 31 December of the year of the individual's death.

History: 2019, c. 14, s. 387.

Multiple individuals.

1029.8.61.96.4. Where, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister for the year under section 1029.8.61.96.3 in respect of a same person who is an eligible relative of those individuals, no amount greater than the amount provided for in that section, for the year, in respect of that person shall be deemed to have been paid to the Minister, for the year, under that section in respect of that person.

Determination by the Minister.

Where those individuals cannot agree as to what portion of the amount each would, but for this section, be deemed to have paid to the Minister, the Minister may determine that portion of the amount for the year.

History: 2019, c. 14, s. 387.

Dependant.

1029.8.61.96.5. For the purposes of section 1029.8.61.96.3, a person is dependent upon an individual during a taxation year if the individual is not the person's spouse and has deducted, for the year, in respect of the person, an amount under any of sections 752.0.1 to 752.0.7, 752.0.11 to 752.0.18.0.1 and 776.41.14.

History: 2019, c. 14, s. 387.

Special rule for the year in which an eligible relative reaches 18 years of age.

1029.8.61.96.6. The amount determined under the first paragraph of section 1029.8.61.96.3, in respect of each person who is an eligible relative of an individual and has reached 18 years of age in a taxation year, and taken into account for the purpose of computing the amount that the individual is deemed to have paid to the Minister under section 1029.8.61.96.3 for the year is to be replaced by an amount equal to the proportion of that amount that the number of months in the year that follow the month in which that person reaches 18 years of age is of 12.

History: 2019, c. 14, s. 387.

Reduction of the tax credit.

1029.8.61.96.7. The amount determined under the first paragraph of section 1029.8.61.96.3, in respect of a person who is an eligible relative of an individual, and taken into account for the purpose of computing the amount that the

individual is deemed to have paid to the Minister under section 1029.8.61.96.3 for a taxation year is to be reduced by an amount that is the portion of a financial assistance benefit received in that year by the individual or, as the case may be, by the individual's spouse for the year, in respect of that person, under any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), that is attributable to the amount of the increase for a dependent child of full age who is handicapped and attends an educational institution at the secondary level in general education provided for in the second paragraph of section 75 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1).

History: 2019, c. 14, s. 387.

Restrictions.

1029.8.61.96.8. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.96.3 for a taxation year in respect of a person if, as the case may be,

(a) that person is an eligible relative, within the meaning of any of sections 1029.8.61.61, 1029.8.61.83 and 1029.8.61.91, in respect of which an individual is deemed to have paid an amount to the Minister for the year under section 1029.8.61.64, 1029.8.61.85 or 1029.8.61.93, as the case may be; or

(b) that person attributed an amount to the individual for the year under section 1029.8.61.74 and that amount, or the amount deemed to have been attributed to the individual for the year in accordance with section 1029.8.61.74, is taken into account in computing an amount that the individual is deemed to have paid to the Minister for the year under section 1029.8.61.73.

History: 2019, c. 14, s. 387.

Certification.

1029.8.61.96.9. No individual may be deemed to have paid an amount to the Minister under section 1029.8.61.96.3 for a taxation year in respect of a person unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable by the individual for the year under this Part, the following documents:

(a) the prescribed form on which

i. the individual certifies that, during the person's minimum period of support by the individual for the year, the individual provided assistance to the person, gratuitously and on a regular and constant basis, by assisting the person in performing a basic activity of daily living, and

ii. the individual certifies that, throughout the person's minimum period of support by the individual for the year, the

person was not living in a private seniors' residence, in a facility maintained by a private institution not under agreement that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2), or in a public network facility;

(b) if the person's severe and prolonged impairment in mental or physical functions is an impairment whose effects are such that

i. the person's ability to perform a basic activity of daily living is markedly restricted, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the person has a sight impairment, a physician, a specialized nurse practitioner or an optometrist, within the meaning of that section, or, where the person has a speech impairment, a physician, a specialized nurse practitioner or a speech-language pathologist, within the meaning of that section, or, where the person has a hearing impairment, a physician, a specialized nurse practitioner or an audiologist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in walking, a physician, a specialized nurse practitioner, an occupational therapist or a physiotherapist, within the meaning of that section, or, where the person has an impairment with respect to the person's ability in mental functions necessary for everyday life, a physician, a specialized nurse practitioner or a psychologist, within the meaning of that section, certifies that the person has such an impairment, or

ii. the person's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living, the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, or, where the person has an impairment with respect to the person's ability in walking or in feeding or dressing himself or herself, a physician, a specialized nurse practitioner or an occupational therapist, within the meaning of that section, certifies that the person has such an impairment; and

(c) the prescribed form on which a physician or a specialized nurse practitioner, within the meaning of section 752.0.18, certifies that the person requires assistance to perform a basic activity of daily living because of the person's impairment.

History: 2019, c. 14, s. 387.

DIVISION II.11.8

CREDIT FOR A STAY IN A FUNCTIONAL REHABILITATION TRANSITION UNIT

Definitions:

1029.8.61.97. In this division,

“eligible individual”;

“eligible individual” for a taxation year means an individual who, at the end of 31 December of the year, is 70 years of age or over and is resident in Québec or who, if the individual died in the year, had reached that age and was resident in Québec immediately before the death;

“functional rehabilitation transition unit”.

“functional rehabilitation transition unit” means a public or private resource offering accommodation and services focusing on re-education and rehabilitation for persons with decreasing independence who have a geriatric profile and present a potential for recovery with a view to returning home following hospitalization.

History: 2013, c. 10, s. 141.

Tax credit for a stay in a functional rehabilitation transition unit.

1029.8.61.98. An eligible individual for a taxation year is deemed to have paid to the Minister, on the individual's balance-due day for that year, on account of the individual's tax payable under this Part for that taxation year, an amount equal to 20% of the total of the amounts each of which is the aggregate of the expenses paid in the year by the individual, or by the person who is the individual's spouse at the time of payment, in respect of the individual's stay, begun in the year or the preceding year, in a functional rehabilitation transition unit to the extent of the portion of that aggregate that is attributable to a stay of no more than 60 days.

Filing requirements.

An eligible individual may be deemed to have paid to the Minister an amount under the first paragraph for a taxation year only if the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable under this Part by the individual for the year, a receipt or other voucher for the expenses mentioned in the first paragraph.

History: 2013, c. 10, s. 141; 2015, c. 21, s. 480.

Excluded amounts.

1029.8.61.99. For the purposes of section 1029.8.61.98, the expenses paid in the year in respect of a stay in a functional rehabilitation transition unit do not include

(a) an amount in respect of which a taxpayer is or was entitled to a reimbursement, or another form of assistance, except to the extent that the amount is included in computing

the income of any taxpayer and is not deductible in computing that taxpayer's income or taxable income;

(b) an amount that was taken into account in computing an amount deducted in computing an individual's tax payable under this Part; and

(c) an amount that was taken into account in computing an amount that an individual is deemed to have paid to the Minister on account of the individual's tax payable under this chapter, but otherwise than under this division.

History: 2013, c. 10, s. 141.

DIVISION II.11.9
CREDIT FOR THE ACQUISITION OR RENTAL OF PROPERTY INTENDED TO HELP SENIORS LIVE INDEPENDENTLY LONGER

Definitions:

1029.8.61.100. In this division,

“eligible individual”;

“eligible individual” for a taxation year means an individual who, at the end of 31 December of the year, is 70 years of age or over and is resident in Québec or who, if the individual died in the year, had reached that age and was resident in Québec immediately before the death;

“qualified property”;

“qualified property” means

(a) a person-centered remote monitoring device or a personal GPS locator;

(b) a property designed to assist a person to get into or out of a bathtub or shower or to get on or off a toilet;

(c) a walk-in bathtub or a walk-in shower;

(d) a chair mounted on a rail designed exclusively to enable a person to ascend or descend a stairway mechanically;

(e) a hospital bed;

(f) an alert system for persons with a hearing impairment;

(g) a hearing aid;

(h) a walker;

(i) a rollator;

(j) a cane;

(k) crutches; or

(l) a non-motorized wheelchair.

History: 2013, c. 10, s. 141; 2019, c. 14, s. 388.

Credit for the acquisition or rental of property intended to help seniors live independently longer.

1029.8.61.101. An eligible individual for a taxation year is deemed to have paid to the Minister, on the individual's balance-due day for that year, on account of the individual's

tax payable under this Part for that taxation year, an amount equal to 20% of the amount by which \$250 is exceeded by the aggregate of all amounts each of which is an amount paid in the year by the individual, or by the person who is the individual's spouse at the time of payment, for the acquisition or rental, including installation costs, of a qualified property intended for use in the individual's principal place of residence.

Filing requirements.

An eligible individual may be deemed to have paid to the Minister an amount under the first paragraph for a taxation year only if the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if tax were payable under this Part by the individual for the year, a receipt or other voucher for the amounts mentioned in the first paragraph.

History: 2013, c. 10, s. 141; 2015, c. 21, s. 481; 2019, c. 14, s. 389.

Excluded amounts.

1029.8.61.102. For the purposes of section 1029.8.61.101, an amount paid in the year in respect of the acquisition or rental of a qualified property does not include

(a) an amount in respect of which a taxpayer is or was entitled to a reimbursement, or another form of assistance, except to the extent that the amount is included in computing the income of any taxpayer and is not deductible in computing that taxpayer's income or taxable income;

(b) an amount that was taken into account in computing an amount deducted in computing an individual's tax payable under this Part; and

(c) an amount that was taken into account in computing an amount that an individual is deemed to have paid to the Minister on account of the individual's tax payable under this chapter, but otherwise than under this division.

History: 2013, c. 10, s. 141.

DIVISION II.11.10
CREDIT FOR SENIOR ASSISTANCE

§1. — *Interpretation and general rules*

Definitions :

1029.8.61.103. In this division,

“eligible individual”;

“eligible individual” for a taxation year means an individual who, at the end of 31 December of the year or, if the individual died in the year, immediately before the death, is not an excluded individual for the year and

(a) is resident in Québec or, if the individual is the eligible spouse for the year of a person who is deemed to be resident

in Québec throughout the taxation year, was resident in Québec in any preceding taxation year; and

(b) is, or whose eligible spouse for the year is,

i. a Canadian citizen,

ii. a permanent resident within the meaning of subsection 1 of section 2 of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27),

iii. a temporary resident or the holder of a temporary resident permit, within the meaning of the Immigration and Refugee Protection Act, who was resident in Canada during the 18-month period preceding that time, or

iv. a protected person within the meaning of the Immigration and Refugee Protection Act;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“excluded individual”;

“excluded individual” for a taxation year means

(a) a person who is exempt from tax for the year under section 982 or 983 or any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002) or the eligible spouse of the person for the year; or

(b) a person who, at the end of 31 December of the year or, if the person died in the year, immediately before the death, is confined to a prison or a similar institution and has been so confined in the year for one or more periods totalling more than 183 days;

“family income”.

“family income” of an individual for a taxation year means the aggregate of the income of the individual for the year and the income, for the year, of the person who is the individual’s eligible spouse for the year.

Individual confined to a prison.

For the purposes of paragraph *b* of the definition of “excluded individual” in the first paragraph, a person who has been allowed, in a taxation year, to be temporarily absent from a prison or similar institution to which the person has been confined is deemed to be confined to that prison or similar institution during each day of the year during which the person has been so allowed to be temporarily absent.

Individual not resident in Canada throughout the year.

For the purposes of the definition of “family income” in the first paragraph, where an individual was not resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in

Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 2019, c. 14, s. 390.

§2. — *Credit*

Credit.

1029.8.61.104. An eligible individual for a taxation year is deemed to have paid to the Minister, on the eligible individual’s balance-due day for that year, on account of the eligible individual’s tax payable under this Part for the year, if the eligible individual and, where applicable, the eligible individual’s eligible spouse for the year file a fiscal return under section 1000 for the year, an amount equal to the amount determined by the formula

$A - B.$

Formula elements.

In the formula in the first paragraph,

(a) A is the aggregate of

i. \$203, where the eligible individual is at least 70 years of age at the end of 31 December of the year or, if the eligible individual died in the year, on the date of the death, and

ii. \$203, where the eligible individual has an eligible spouse for the year who is both an eligible individual for the year and at least 70 years of age at the end of 31 December of the year or, if the eligible spouse died in the year, on the date of the death; and

(b) B is 5% of the amount by which the eligible individual’s family income for the year exceeds

i. \$22,885, where the eligible individual does not have an eligible spouse for the year, or

ii. \$37,225, where the eligible individual has an eligible spouse for the year.

History: 2019, c. 14, s. 390.

Credit applied for by both spouses.

1029.8.61.105. Despite section 1029.8.61.104, where a particular eligible individual referred to in section 1029.8.61.104 has an eligible spouse for a taxation year who is an eligible individual for the year and the particular eligible individual files with the Minister, together with the particular eligible individual’s fiscal return referred to in section 1029.8.61.104, the prescribed form containing prescribed information, the following rules apply:

(a) the amount the particular individual is deemed to have paid to the Minister for the year under section 1029.8.61.104,

determined without reference to this section, is to be reduced by such portion of the amount as the particular individual and the particular individual's eligible spouse agree, in that prescribed form, to attribute to the eligible spouse for the year;

(b) the amount the eligible spouse is deemed to have paid to the Minister for the year under section 1029.8.61.104, determined without reference to this section, is to be reduced by the amount determined for the year under subparagraph *a* in respect of the particular individual; and

(c) the amount determined for the year under subparagraph *a* in respect of the particular individual and the amount determined for the year under subparagraph *b* in respect of the eligible spouse are deemed to be the amount the particular individual is deemed to have paid to the Minister for the year under section 1029.8.61.104 and the amount the eligible spouse is deemed to have so paid to the Minister for the year, respectively.

Form.

For the purposes of the first paragraph, only one prescribed form may be considered valid in respect of a taxation year.

History: 2019, c. 14, s. 390.

Certificate from spouse.

1029.8.61.106. Section 1029.8.61.105 applies in respect of an eligible individual in relation to a taxation year only if the eligible individual files with the Minister, together with the fiscal return the eligible individual files for the year under section 1000, a written statement from the eligible individual's eligible spouse for the year in the prescribed form referred to in section 1029.8.61.105.

History: 2019, c. 14, s. 390.

Prescribed form.

1029.8.61.107. For the purposes of section 1029.8.61.104, where an eligible individual referred to in that section for a taxation year has an eligible spouse for the year who is an eligible individual for the year and neither the individual nor the spouse have filed with the Minister the prescribed form referred to in section 1029.8.61.105 for the year, the Minister shall determine the amount each is deemed to have paid under section 1029.8.61.104 for the year.

History: 2019, c. 14, s. 390.

DIVISION II.12 CREDIT FOR ADOPTION EXPENSES

§1. — Interpretation

Definitions:

1029.8.62. In this division,

“certified organization”;

“certified organization” means an organization certified by the Minister of Health and Social Services whose certification is in effect;

“eligible expenses”;

“eligible expenses” in respect of the adoption of a person by an individual means the following expenses, to the extent that they are reasonable and paid after an application was made for registration with the Minister of Health and Social Services or a certified organization:

(a) judicial, extrajudicial or administrative expenses incurred to obtain a qualifying certificate or a qualifying judgment, as the case may be, in respect of the adoption of the person by the individual,

(b) expenses relating to the psychosocial assessment referred to in the third paragraph of section 71.7 of the Youth Protection Act (chapter P-34.1), made in view of the adoption of the person by the individual,

(c) expenses relating to the translation of documents pertaining to the adoption of the person by the individual,

(d) the travel expenses in respect of the adoption of the person, in this paragraph referred to as the “adopted child”, by the individual of

i. the adopted child, if the travelling enables the child to be integrated into the self-contained domestic establishment of the individual or the individual's spouse, and

ii. the person escorting the adopted child at the time of the travelling referred to in subparagraph i, if neither the individual nor the individual's spouse accompanies the child while that child is being so escorted,

(e) the travel and living expenses, in respect of the adoption of the person by the individual, of the individual and, where applicable, the individual's spouse, to the extent that the travelling is necessary,

(f) the fees charged by a certified organization that takes steps on behalf of the individual with a view to the adoption of the person by the individual,

(g) the fees charged by a foreign institution that provides for the needs of the person during a period preceding the time at which the person ordinarily lives with the individual, and

(h) the expenses that result from a requirement imposed by a government authority in respect of the adoption of the person by the individual;

“qualifying certificate”;

“qualifying certificate” in respect of the adoption of a person by an individual means

(a) a certificate of compliance with the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption issued by the competent authority of the State in which the adoption of the person by the individual took place, unless the Minister of Health and

Social Services has referred it to the Court of Québec under the second paragraph of section 9 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3); or

(b) if the proposed adoption of a child domiciled in the People's Republic of China is approved by the Court of Québec before 1 February 2006, a certificate of the registration, by the clerk of the Court of Québec, of the adoption of the person by the individual, given to that individual in accordance with section 3 of the Act respecting adoptions of children domiciled in the People's Republic of China (chapter A-7.01);

“qualifying judgment”.

“qualifying judgment” in respect of the adoption of a person by an individual means

(a) a judgment rendered by a court having jurisdiction in Québec in recognition of a decision rendered outside Québec authorizing the adoption of the person by the individual; or

(b) a judgment authorizing the adoption of the person by the individual rendered by a court having jurisdiction in Québec, other than a judgment referred to in the second paragraph of section 1 of the Act respecting adoptions of children domiciled in the People's Republic of China.

Non-eligible expenses.

For the purposes of this division, the following expenses shall not be regarded, for a taxation year, as eligible expenses in respect of the adoption of a person by an individual:

(a) expenses in respect of which an amount

i. was deducted in computing the income or taxable income of or tax payable by the individual or the individual's spouse for the year or a preceding taxation year under this Part, or

ii. is deemed to have been paid to the Minister by the individual or the individual's spouse on account of the tax payable by the individual or the individual's spouse for the year or a preceding taxation year under this Part, except an amount that is deemed under this division to have been paid to the Minister on account of the tax payable by the individual or the individual's spouse for the year under this Part;

(b) *(subparagraph repealed)*;

(c) expenses for which the individual or the individual's spouse or, as the case may be, the legal representative of either the individual or the individual's spouse, has received or is entitled to receive a refund, except to the extent that the amount of the expenses is required to be included in computing the income of the individual or the individual's spouse under this Part and is not deductible in computing the

income or the taxable income of the individual or the individual's spouse.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 205; 1997, c. 85, s. 264; 2003, c. 2, s. 277; 2004, c. 21, s. 440; 2006, c. 36, s. 202; 2015, c. 21, s. 482; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; 2017, c. 29, s. 191.

§2. — *Credit*

Credit for adoption expenses.

1029.8.63. An individual who is resident in Québec on 31 December of a year in which the individual is given or issued, as the case may be, a qualifying certificate or in which a qualifying judgment is rendered in the individual's favour, as the case may be, in respect of the adoption of a person by the individual, is deemed to have paid to the Minister, on the individual's balance-due day for the individual's taxation year the end of which coincides with that date, on account of the individual's tax payable pursuant to this Part for that taxation year, an amount, for the year, in respect of the adoption of the person by the individual, equal to the lesser of \$10,000 and 50% of all of the eligible expenses paid by the individual and the individual's spouse in respect of the adoption.

Deceased individual.

For the purposes of this section, an individual who is resident in Québec immediately before his death is deemed to be resident in Québec on 31 December of the year of his death.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 206; 1997, c. 31, s. 143; 2000, c. 39, s. 191; 2001, c. 51, s. 193; 2002, c. 9, s. 118; 2006, c. 36, s. 203; 2009, c. 15, s. 327.

Proof of adoption.

1029.8.64. An individual shall not be deemed to have paid to the Minister an amount under section 1029.8.63 for a taxation year in respect of the adoption of a person by the individual unless the individual files with the Minister, together with the fiscal return he is required to file under section 1000 for the year, or that he would be required to so file if tax were payable by the individual for the year under this Part, a copy of the qualifying certificate or qualifying judgment or, where the qualifying judgment has not been communicated to the individual, a writing from the Ministère de la Justice confirming the qualifying judgment, as the case may be, in respect of the adoption of the person by the individual.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 206.

Exemption from tax.

1029.8.65. An individual shall not be deemed to have paid to the Minister an amount under section 1029.8.63 for a taxation year in respect of the adoption of a person by the individual if the individual or his spouse is exempt from tax for the year under section 982 or 983 or under any of

subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 1995, c. 1, s. 162; 1995, c. 63, s. 206; 2007, c. 12, s. 205; 2010, c. 31, s. 175.

More than one individual.

1029.8.66. Where, for a taxation year, more than one individual could, but for this section, be deemed to have paid to the Minister an amount under section 1029.8.63 for the year in respect of the adoption of the same person by those individuals, no amount greater than the amount provided for in that section, for the year, in respect of the adoption of the person by those individuals, shall be deemed to have been paid to the Minister, for the year, under that section in respect of that adoption.

Determination by the Minister.

Where those individuals cannot agree as to what portion of the amount each would, but for this section, be deemed to have paid to the Minister, the Minister may determine that portion of the amount for the year.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 206.

DIVISION II.12.1 CREDIT FOR THE TREATMENT OF INFERTILITY

§1. — *Interpretation*

Definitions:

1029.8.66.1. In this division,

“eligible expenses”;

“eligible expenses” of an individual means the expenses paid by the individual after 31 December 2014 in respect of an eligible in vitro fertilization treatment if

(a) the expenses are paid to enable the individual or a person participating with the individual in assisted procreation to have a child;

(b) where the expenses are incurred after 10 November 2015,

i. neither the individual nor the person who is the other party to the parental project has a child before the beginning of the in vitro fertilization treatment,

ii. a physician certifies that neither the individual nor the person who is the other party to the parental project has undergone surgical sterilization by vasectomy or tubal ligation, as the case may be, for reasons that are not strictly medical, and

iii. the expenses are attributable to no more than one and the same in vitro fertilization cycle, in the case of a woman 36 years of age or under, and to no more than the same two

in vitro fertilization cycles, in the case of a woman 37 years of age or over; and

(c) the expenses are paid

i. for an in vitro fertilization activity carried out in a centre for assisted procreation that holds a licence issued in accordance with the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01),

ii. for an in vitro fertilization activity carried out in an establishment situated outside Québec, unless, where in vitro fertilization activities in respect of that treatment were begun after 31 December 2014 by the individual or the person who is the other party to the parental project, the person who began such activities was domiciled in Québec at the time the expenses were incurred,

iii. for medications related to an in vitro fertilization activity that satisfy the following conditions:

(1) they can lawfully be acquired for use by a person only if prescribed by a physician,

(2) their purchase is recorded by a pharmacist, and

(3) they are not covered by an insurance plan,

iv. for expenses related to an assessment referred to in section 10.2 of the Act respecting clinical and research activities relating to assisted procreation of the individual or of the person who is the other party to the parental project, where such an assessment allowed the in vitro fertilization treatment to be undertaken or continued,

v. for travel expenses that, but for paragraph *a* of section 752.0.11.1.3, would be medical expenses referred to in paragraph *h* or *i* of section 752.0.11.1, or

vi. for reasonable travel and lodging expenses of a particular person and, if the particular person cannot travel unassisted, of the person accompanying the particular person for participation in an in vitro fertilization treatment at a centre for assisted procreation situated in Québec, if a physician certifies that no centre for assisted procreation exists in Québec within 200 kilometres of the locality, in Québec, where the particular person lives and, if such is the case, that the person is unable to travel unassisted;

“eligible in vitro fertilization treatment”;

“eligible in vitro fertilization treatment” means a non-insured in vitro fertilization treatment during which

(a) a single embryo or, in accordance with the decision of a physician who has considered the quality of the embryos, a maximum of two embryos, in the case of a woman 36 years of age or under, or three embryos including no more than two blastocysts, in the case of a woman 37 years of age or over, are transferred into the woman before 11 November 2015; or

(b) a single embryo or, in accordance with the decision of a physician who has considered the quality of the embryos, a maximum of two embryos, in the case of a woman 37 years of age or over, are transferred into the woman after 10 November 2015;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”;

“family income” of an individual for a taxation year means the aggregate of the income of the individual for the year and the income, for the year, of the person who is the individual’s eligible spouse for the year;

“in vitro fertilization cycle”;

“in vitro fertilization cycle” means a cycle that aims to obtain the formation of one or more embryos for transfer into a woman and that

(a) consists of the following steps:

i. egg retrieval or donation, which may be preceded by ovarian stimulation or ovulation induction,

ii. sperm retrieval or donation,

iii. in vitro fertilization and, if applicable, preservation of surplus embryos, and

iv. transfer into a woman, in one or more separate attempts, of the embryos obtained until a live birth results; or

(b) is a cycle that was interrupted because a quality embryo was not obtained for transfer into a woman;

“non-insured in vitro fertilization treatment”;

“non-insured in vitro fertilization treatment” means an in vitro fertilization treatment in respect of which no cost for in vitro fertilization activities is paid on behalf of a person participating in the treatment, or for which the person may not be reimbursed, by the administrator of a universal health insurance plan;

“pre-existing expenses”;

“pre-existing expenses” of an individual means the individual’s eligible expenses that were incurred before 11 November 2015 in respect of an in vitro fertilization treatment that was, at the time the expenses were incurred, a non-insured in vitro fertilization treatment;

“universal health insurance plan”.

“universal health insurance plan” means

(a) a plan established by or pursuant to a law of a province that establishes a health insurance plan that is a health care insurance plan within the meaning of section 2 of the Canada Health Act (Revised Statutes of Canada, 1985, chapter C-6) or a plan established by or pursuant to a law of another jurisdiction that establishes a public health insurance plan; or

(b) a plan established by the Government of Canada that provides for health insurance protection for the members of the Canadian Forces.

Non-eligible expenses.

For the purposes of this division, the following expenses shall not be considered, for a taxation year, to be eligible expenses of an individual:

(a) expenses in respect of which an amount

i. was deducted in computing the income or taxable income of or tax otherwise payable by the individual or the person who is the other party to the parental project for the year or a preceding taxation year under this Part, or

ii. is deemed to have been paid to the Minister by the individual or the person who is the other party to the parental project on account of the tax payable by the individual or the person who is the other party to the parental project for the year or a preceding taxation year under this Part, except an amount that is deemed under this division to have been paid to the Minister on account of the tax payable by the individual or the person who is the other party to the parental project for the year under this Part; and

(b) expenses in respect of which an individual or the person who is the other party to the parental project or, as the case may be, the legal representative of either the individual or the person who is the other party to the parental project, has received or is entitled to receive a refund, except to the extent that the amount of the expenses is required to be included in computing the income of the individual or the person who is the other party to the parental project under this Part and is not deductible in computing the income or taxable income of the individual or the person who is the other party to the parental project.

Person having begun in vitro fertilization activities.

For the purposes of subparagraph ii of paragraph c of the definition of “eligible expenses” in the first paragraph, a person is considered to have begun in vitro fertilization activities if

(a) the person herself has received services required to retrieve eggs or ovarian tissue; or

(b) the person participating with her in the assisted procreation activity has received, as applicable, services required to retrieve sperm by means of medical intervention or services required to retrieve eggs or ovarian tissue.

Individual not resident in Canada throughout the year.

For the purposes of the definition of “family income” in the first paragraph, where an individual has not been resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would

be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the individual's death.

History: 2001, c. 51, s. 194; 2004, c. 21, s. 441; 2005, c. 38, s. 286; 2010, c. 25, s. 182; 2011, c. 6, s. 196; 2017, c. 1, s. 305; 2017, c. 29, s. 192.

§2. — *Credit*

Tax credit for the treatment of infertility.

1029.8.66.2. An individual who is resident in Québec at the end of 31 December of a taxation year is deemed to have paid to the Minister, on the individual's balance-due day for that taxation year, on account of the individual's tax payable under this Part for that taxation year, an amount equal to the aggregate of

(a) the lesser of \$10,000 and 50% of the individual's pre-existing expenses which the individual paid in the year; and

(b) the amount determined by the formula

$$A \times (B - C).$$

Interpretation.

In the formula in the first paragraph,

(a) A is the appropriate percentage determined in section 1029.8.66.5.1 or 1029.8.66.5.2, as the case may be, in respect of the individual for the year;

(b) B is the lesser of \$20,000 and the individual's eligible expenses which the individual paid in the year; and

(c) C is the individual's pre-existing expenses which the individual paid in the year.

Deceased individual.

For the purposes of this section, an individual who is resident in Québec immediately before the individual's death is deemed to be resident in Québec at the end of 31 December of the year of the individual's death.

History: 2001, c. 51, s. 194; 2002, c. 9, s. 119; 2009, c. 15, s. 328; 2011, c. 6, s. 197; 2017, c. 1, s. 307.

Filing requirements.

1029.8.66.3. An individual shall not be deemed to have paid to the Minister an amount under section 1029.8.66.2 for a taxation year, unless the individual files with the Minister, together with the fiscal return the individual is required to file under section 1000 for the year, or that the individual would be required to so file if tax were payable by the

individual for the year under this Part, the following documents:

(a) the prescribed form containing the prescribed information;

(b) a copy of all receipts providing evidence of the expenses referred to in any of subparagraphs i to v of paragraph c of the definition of "eligible expenses" in the first paragraph of section 1029.8.66.1; and

(c) a copy of the certificate referred to in subparagraph ii of paragraph b and subparagraph vi of paragraph c of the definition of "eligible expenses" in the first paragraph of section 1029.8.66.1 in prescribed form.

History: 2001, c. 51, s. 194; 2011, c. 6, s. 198; 2017, c. 1, s. 308.

Individual exempt from tax.

1029.8.66.4. An individual shall not be deemed to have paid to the Minister an amount under section 1029.8.66.2 for a taxation year if the individual or the individual's spouse is exempt from tax for the year under section 982 or 983 or under any of subparagraphs a to d and f of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2001, c. 51, s. 194; 2007, c. 12, s. 206; 2010, c. 31, s. 175.

More than one individual.

1029.8.66.5. Where, in a taxation year, eligible expenses in respect of the same parental project were paid by more than one individual, the total eligible expenses that may be taken into account for the purpose of computing the amount that each of those individuals is deemed to have paid to the Minister under section 1029.8.66.2 for the year may not be greater than the amount of eligible expenses that could be so taken into account for the year if only one of the individuals had paid all of the expenses.

Determination by the Minister.

Where those individuals cannot agree as to the amount of eligible expenses each individual may take into account for the purpose of computing the amount that that individual is deemed to have paid to the Minister under section 1029.8.66.2 for the year, the Minister may determine that amount for the year.

History: 2001, c. 51, s. 194; 2017, c. 1, s. 309.

Tax credit rates — individuals living as a couple.

1029.8.66.5.1. The percentage to which subparagraph a of the second paragraph of section 1029.8.66.2 refers for a taxation year in respect of an individual who has an eligible spouse for the year is

(a) 80% if the individual's family income for the year does not exceed \$50,000;

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<p>(b) 79% if the individual's family income for the year exceeds \$50,000 but does not exceed \$51,186;</p>	<p>(v) 59% if the individual's family income for the year exceeds \$73,729 but does not exceed \$74,915;</p>
<p>(c) 78% if the individual's family income for the year exceeds \$51,186 but does not exceed \$52,373;</p>	<p>(w) 58% if the individual's family income for the year exceeds \$74,915 but does not exceed \$76,102;</p>
<p>(d) 77% if the individual's family income for the year exceeds \$52,373 but does not exceed \$53,559;</p>	<p>(x) 57% if the individual's family income for the year exceeds \$76,102 but does not exceed \$77,288;</p>
<p>(e) 76% if the individual's family income for the year exceeds \$53,559 but does not exceed \$54,746;</p>	<p>(y) 56% if the individual's family income for the year exceeds \$77,288 but does not exceed \$78,475;</p>
<p>(f) 75% if the individual's family income for the year exceeds \$54,746 but does not exceed \$55,932;</p>	<p>(z) 55% if the individual's family income for the year exceeds \$78,475 but does not exceed \$79,661;</p>
<p>(g) 74% if the individual's family income for the year exceeds \$55,932 but does not exceed \$57,119;</p>	<p>(z.1) 54% if the individual's family income for the year exceeds \$79,661 but does not exceed \$80,847;</p>
<p>(h) 73% if the individual's family income for the year exceeds \$57,119 but does not exceed \$58,305;</p>	<p>(z.2) 53% if the individual's family income for the year exceeds \$80,847 but does not exceed \$82,034;</p>
<p>(i) 72% if the individual's family income for the year exceeds \$58,305 but does not exceed \$59,492;</p>	<p>(z.3) 52% if the individual's family income for the year exceeds \$82,034 but does not exceed \$83,220;</p>
<p>(j) 71% if the individual's family income for the year exceeds \$59,492 but does not exceed \$60,678;</p>	<p>(z.4) 51% if the individual's family income for the year exceeds \$83,220 but does not exceed \$84,407;</p>
<p>(k) 70% if the individual's family income for the year exceeds \$60,678 but does not exceed \$61,864;</p>	<p>(z.5) 50% if the individual's family income for the year exceeds \$84,407 but does not exceed \$85,593;</p>
<p>(l) 69% if the individual's family income for the year exceeds \$61,864 but does not exceed \$63,051;</p>	<p>(z.6) 49% if the individual's family income for the year exceeds \$85,593 but does not exceed \$86,780;</p>
<p>(m) 68% if the individual's family income for the year exceeds \$63,051 but does not exceed \$64,237;</p>	<p>(z.7) 48% if the individual's family income for the year exceeds \$86,780 but does not exceed \$87,966;</p>
<p>(n) 67% if the individual's family income for the year exceeds \$64,237 but does not exceed \$65,424;</p>	<p>(z.8) 47% if the individual's family income for the year exceeds \$87,966 but does not exceed \$89,153;</p>
<p>(o) 66% if the individual's family income for the year exceeds \$65,424 but does not exceed \$66,610;</p>	<p>(z.9) 46% if the individual's family income for the year exceeds \$89,153 but does not exceed \$90,339;</p>
<p>(p) 65% if the individual's family income for the year exceeds \$66,610 but does not exceed \$67,797;</p>	<p>(z.10) 45% if the individual's family income for the year exceeds \$90,339 but does not exceed \$91,525;</p>
<p>(q) 64% if the individual's family income for the year exceeds \$67,797 but does not exceed \$68,983;</p>	<p>(z.11) 44% if the individual's family income for the year exceeds \$91,525 but does not exceed \$92,712;</p>
<p>(r) 63% if the individual's family income for the year exceeds \$68,983 but does not exceed \$70,169;</p>	<p>(z.12) 43% if the individual's family income for the year exceeds \$92,712 but does not exceed \$93,898;</p>
<p>(s) 62% if the individual's family income for the year exceeds \$70,169 but does not exceed \$71,356;</p>	<p>(z.13) 42% if the individual's family income for the year exceeds \$93,898 but does not exceed \$95,085;</p>
<p>(t) 61% if the individual's family income for the year exceeds \$71,356 but does not exceed \$72,542;</p>	<p>(z.14) 41% if the individual's family income for the year exceeds \$95,085 but does not exceed \$96,271;</p>
<p>(u) 60% if the individual's family income for the year exceeds \$72,542 but does not exceed \$73,729;</p>	<p>(z.15) 40% if the individual's family income for the year exceeds \$96,271 but does not exceed \$97,458;</p>

- (z.16) 39% if the individual's family income for the year exceeds \$97,458 but does not exceed \$98,644;
- (z.17) 38% if the individual's family income for the year exceeds \$98,644 but does not exceed \$99,831;
- (z.18) 37% if the individual's family income for the year exceeds \$99,831 but does not exceed \$101,017;
- (z.19) 36% if the individual's family income for the year exceeds \$101,017 but does not exceed \$102,203;
- (z.20) 35% if the individual's family income for the year exceeds \$102,203 but does not exceed \$103,390;
- (z.21) 34% if the individual's family income for the year exceeds \$103,390 but does not exceed \$104,576;
- (z.22) 33% if the individual's family income for the year exceeds \$104,576 but does not exceed \$105,763;
- (z.23) 32% if the individual's family income for the year exceeds \$105,763 but does not exceed \$106,949;
- (z.24) 31% if the individual's family income for the year exceeds \$106,949 but does not exceed \$108,136;
- (z.25) 30% if the individual's family income for the year exceeds \$108,136 but does not exceed \$109,322;
- (z.26) 29% if the individual's family income for the year exceeds \$109,322 but does not exceed \$110,508;
- (z.27) 28% if the individual's family income for the year exceeds \$110,508 but does not exceed \$111,695;
- (z.28) 27% if the individual's family income for the year exceeds \$111,695 but does not exceed \$112,881;
- (z.29) 26% if the individual's family income for the year exceeds \$112,881 but does not exceed \$114,068;
- (z.30) 25% if the individual's family income for the year exceeds \$114,068 but does not exceed \$115,254;
- (z.31) 24% if the individual's family income for the year exceeds \$115,254 but does not exceed \$116,441;
- (z.32) 23% if the individual's family income for the year exceeds \$116,441 but does not exceed \$117,627;
- (z.33) 22% if the individual's family income for the year exceeds \$117,627 but does not exceed \$118,814;
- (z.34) 21% if the individual's family income for the year exceeds \$118,814 but does not exceed \$120,000; or

(z.35) 20% if the individual's family income for the year exceeds \$120,000.

History: 2017, c. 1, s. 310.

Tax credit rates — individuals living alone.

1029.8.66.5.2. The percentage to which subparagraph *a* of the second paragraph of section 1029.8.66.2 refers for a taxation year in respect of an individual who does not have an eligible spouse for the year is

- (a) 80% if the individual's family income for the year does not exceed \$25,000;
- (b) 79% if the individual's family income for the year exceeds \$25,000 but does not exceed \$25,593;
- (c) 78% if the individual's family income for the year exceeds \$25,593 but does not exceed \$26,186;
- (d) 77% if the individual's family income for the year exceeds \$26,186 but does not exceed \$26,780;
- (e) 76% if the individual's family income for the year exceeds \$26,780 but does not exceed \$27,373;
- (f) 75% if the individual's family income for the year exceeds \$27,373 but does not exceed \$27,966;
- (g) 74% if the individual's family income for the year exceeds \$27,966 but does not exceed \$28,559;
- (h) 73% if the individual's family income for the year exceeds \$28,559 but does not exceed \$29,153;
- (i) 72% if the individual's family income for the year exceeds \$29,153 but does not exceed \$29,746;
- (j) 71% if the individual's family income for the year exceeds \$29,746 but does not exceed \$30,339;
- (k) 70% if the individual's family income for the year exceeds \$30,339 but does not exceed \$30,932;
- (l) 69% if the individual's family income for the year exceeds \$30,932 but does not exceed \$31,525;
- (m) 68% if the individual's family income for the year exceeds \$31,525 but does not exceed \$32,119;
- (n) 67% if the individual's family income for the year exceeds \$32,119 but does not exceed \$32,712;
- (o) 66% if the individual's family income for the year exceeds \$32,712 but does not exceed \$33,305;
- (p) 65% if the individual's family income for the year exceeds \$33,305 but does not exceed \$33,898;

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<p>(q) 64% if the individual's family income for the year exceeds \$33,898 but does not exceed \$34,492;</p>	<p>(z.11) 44% if the individual's family income for the year exceeds \$45,763 but does not exceed \$46,356;</p>
<p>(r) 63% if the individual's family income for the year exceeds \$34,492 but does not exceed \$35,085;</p>	<p>(z.12) 43% if the individual's family income for the year exceeds \$46,356 but does not exceed \$46,949;</p>
<p>(s) 62% if the individual's family income for the year exceeds \$35,085 but does not exceed \$35,678;</p>	<p>(z.13) 42% if the individual's family income for the year exceeds \$46,949 but does not exceed \$47,542;</p>
<p>(t) 61% if the individual's family income for the year exceeds \$35,678 but does not exceed \$36,271;</p>	<p>(z.14) 41% if the individual's family income for the year exceeds \$47,542 but does not exceed \$48,136;</p>
<p>(u) 60% if the individual's family income for the year exceeds \$36,271 but does not exceed \$36,864;</p>	<p>(z.15) 40% if the individual's family income for the year exceeds \$48,136 but does not exceed \$48,729;</p>
<p>(v) 59% if the individual's family income for the year exceeds \$36,864 but does not exceed \$37,458;</p>	<p>(z.16) 39% if the individual's family income for the year exceeds \$48,729 but does not exceed \$49,322;</p>
<p>(w) 58% if the individual's family income for the year exceeds \$37,458 but does not exceed \$38,051;</p>	<p>(z.17) 38% if the individual's family income for the year exceeds \$49,322 but does not exceed \$49,915;</p>
<p>(x) 57% if the individual's family income for the year exceeds \$38,051 but does not exceed \$38,644;</p>	<p>(z.18) 37% if the individual's family income for the year exceeds \$49,915 but does not exceed \$50,508;</p>
<p>(y) 56% if the individual's family income for the year exceeds \$38,644 but does not exceed \$39,237;</p>	<p>(z.19) 36% if the individual's family income for the year exceeds \$50,508 but does not exceed \$51,102;</p>
<p>(z) 55% if the individual's family income for the year exceeds \$39,237 but does not exceed \$39,831;</p>	<p>(z.20) 35% if the individual's family income for the year exceeds \$51,102 but does not exceed \$51,695;</p>
<p>(z.1) 54% if the individual's family income for the year exceeds \$39,831 but does not exceed \$40,424;</p>	<p>(z.21) 34% if the individual's family income for the year exceeds \$51,695 but does not exceed \$52,288;</p>
<p>(z.2) 53% if the individual's family income for the year exceeds \$40,424 but does not exceed \$41,017;</p>	<p>(z.22) 33% if the individual's family income for the year exceeds \$52,288 but does not exceed \$52,881;</p>
<p>(z.3) 52% if the individual's family income for the year exceeds \$41,017 but does not exceed \$41,610;</p>	<p>(z.23) 32% if the individual's family income for the year exceeds \$52,881 but does not exceed \$53,475;</p>
<p>(z.4) 51% if the individual's family income for the year exceeds \$41,610 but does not exceed \$42,203;</p>	<p>(z.24) 31% if the individual's family income for the year exceeds \$53,475 but does not exceed \$54,068;</p>
<p>(z.5) 50% if the individual's family income for the year exceeds \$42,203 but does not exceed \$42,797;</p>	<p>(z.25) 30% if the individual's family income for the year exceeds \$54,068 but does not exceed \$54,661;</p>
<p>(z.6) 49% if the individual's family income for the year exceeds \$42,797 but does not exceed \$43,390;</p>	<p>(z.26) 29% if the individual's family income for the year exceeds \$54,661 but does not exceed \$55,254;</p>
<p>(z.7) 48% if the individual's family income for the year exceeds \$43,390 but does not exceed \$43,983;</p>	<p>(z.27) 28% if the individual's family income for the year exceeds \$55,254 but does not exceed \$55,847;</p>
<p>(z.8) 47% if the individual's family income for the year exceeds \$43,983 but does not exceed \$44,576;</p>	<p>(z.28) 27% if the individual's family income for the year exceeds \$55,847 but does not exceed \$56,441;</p>
<p>(z.9) 46% if the individual's family income for the year exceeds \$44,576 but does not exceed \$45,169;</p>	<p>(z.29) 26% if the individual's family income for the year exceeds \$56,441 but does not exceed \$57,034;</p>
<p>(z.10) 45% if the individual's family income for the year exceeds \$45,169 but does not exceed \$45,763;</p>	<p>(z.30) 25% if the individual's family income for the year exceeds \$57,034 but does not exceed \$57,627;</p>

(z.31) 24% if the individual's family income for the year exceeds \$57,627 but does not exceed \$58,220;

(z.32) 23% if the individual's family income for the year exceeds \$58,220 but does not exceed \$58,814;

(z.33) 22% if the individual's family income for the year exceeds \$58,814 but does not exceed \$59,407;

(z.34) 21% if the individual's family income for the year exceeds \$59,407 but does not exceed \$60,000; or

(z.35) 20% if the individual's family income for the year exceeds \$60,000.

History: 2017, c. 1, s. 310.

§3. — *Advance payments*

Tax credit for the treatment of infertility — advance payments.

1029.8.66.5.3. Where, on or before 1 December of a taxation year, an individual applies to the Minister in the prescribed form containing prescribed information and the conditions set out in the third paragraph are met, the Minister may pay in advance, according to the terms and conditions the Minister determines and in respect of the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister on account of the individual's tax payable for the year under the first paragraph of section 1029.8.66.2, an amount not exceeding the amount determined by the formula

$$A \times (B - C).$$

Interpretation.

In the formula in the first paragraph,

(a) A is the appropriate percentage determined in section 1029.8.66.5.4 or 1029.8.66.5.5, as the case may be, in respect of the individual for the year;

(b) B is the lesser of \$20,000 and the individual's eligible expenses which the individual paid in the year; and

(c) C is the individual's pre-existing expenses which the individual paid in the year.

Conditions.

The conditions to which the first paragraph refers are as follows:

(a) the individual is resident in Québec at the time of the application;

(b) the individual paid eligible expenses (other than pre-existing expenses) in the year and the prescribed form used for the application is accompanied by a receipt confirming their payment;

(c) the individual's estimated family income for the year does not exceed \$97,458 if the individual has a spouse at the time of the application, or \$48,729 if the individual does not;

(d) the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister on account of the individual's tax payable for the year under the first paragraph of section 1029.8.66.2 is greater than \$2,000; and

(e) the individual has consented to have the advance payments be made by direct deposit in a bank account held at a financial institution listed in Part I of Appendix I to Rule D4—Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

One application per couple.

Where, at the time of the application, an individual has a spouse, only one of them may make this application for the year.

History: 2017, c. 1, s. 310.

Advance payments rates — individuals living as a couple.

1029.8.66.5.4. The percentage to which subparagraph a of the second paragraph of section 1029.8.66.5.3 refers for a taxation year in respect of an individual who has a spouse at the time of the application referred to in the first paragraph of that section is

(a) 80% if the individual's estimated family income for the year does not exceed \$50,000;

(b) 75% if the individual's estimated family income for the year exceeds \$50,000 but does not exceed \$55,932;

(c) 70% if the individual's estimated family income for the year exceeds \$55,932 but does not exceed \$61,864;

(d) 65% if the individual's estimated family income for the year exceeds \$61,864 but does not exceed \$67,797;

(e) 60% if the individual's estimated family income for the year exceeds \$67,797 but does not exceed \$73,729;

(f) 55% if the individual's estimated family income for the year exceeds \$73,729 but does not exceed \$79,661;

(g) 50% if the individual's estimated family income for the year exceeds \$79,661 but does not exceed \$85,593;

(h) 45% if the individual's estimated family income for the year exceeds \$85,593 but does not exceed \$91,525; or

(i) 40% if the individual's estimated family income for the year exceeds \$91,525 but does not exceed \$97,458.

History: 2017, c. 1, s. 310.

Advance payments rates — individuals living alone.

1029.8.66.5.5. The percentage to which subparagraph *a* of the second paragraph of section 1029.8.66.5.3 refers for a taxation year in respect of an individual who does not have a spouse at the time of the application referred to in the first paragraph of that section is

(a) 80% if the individual's estimated family income for the year does not exceed \$25,000;

(b) 75% if the individual's estimated family income for the year exceeds \$25,000 but does not exceed \$27,966;

(c) 70% if the individual's estimated family income for the year exceeds \$27,966 but does not exceed \$30,932;

(d) 65% if the individual's estimated family income for the year exceeds \$30,932 but does not exceed \$33,898;

(e) 60% if the individual's estimated family income for the year exceeds \$33,898 but does not exceed \$36,864;

(f) 55% if the individual's estimated family income for the year exceeds \$36,864 but does not exceed \$39,831;

(g) 50% if the individual's estimated family income for the year exceeds \$39,831 but does not exceed \$42,797;

(h) 45% if the individual's estimated family income for the year exceeds \$42,797 but does not exceed \$45,763; or

(i) 40% if the individual's estimated family income for the year exceeds \$45,763 but does not exceed \$48,729.

History: 2017, c. 1, s. 310.

Additional documents or information.

1029.8.66.5.6. The Minister may require from any individual who makes an application for advance payments referred to in the first paragraph of section 1029.8.66.5.3 a document or information other than those provided for in the first and third paragraphs of that section if the Minister considers the document or information necessary to evaluate the application.

History: 2017, c. 1, s. 310.

Refusal of an application.

1029.8.66.5.7. Despite the first paragraph of section 1029.8.66.5.3, the Minister is not required to grant an application for advance payments referred to in that paragraph for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application, received an amount the Minister paid in advance under section 1029.8.66.5.3 for a preceding taxation year and, at the time the application is processed, has not filed a fiscal return for the preceding year; and

(b) the application is processed after the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2017, c. 1, s. 310.

Suspension, reduction or cessation of advance payment.

1029.8.66.5.8. The Minister may suspend the advance payment of, reduce or cease to pay an amount provided for in section 1029.8.66.5.3 if documents or information brought to the Minister's attention so warrant.

History: 2017, c. 1, s. 310.

DIVISION II.12.2 CREDIT FOR CHILDREN'S ACTIVITIES

§1. — *Interpretation and general rules*

Definitions:

1029.8.66.6. In this division,

“artistic, cultural, recreational or developmental activity”; “artistic, cultural, recreational or developmental activity” means a supervised activity, including an activity adapted for a child with an impairment, that is suitable for children (other than a physical activity) and that

(a) is intended to contribute to a child's ability to develop creative skills or expertise, acquire and apply knowledge, or improve dexterity or coordination, in an artistic or cultural discipline including

- i. literary arts,
- ii. visual arts,
- iii. performing arts,
- iv. music,
- v. media,
- vi. languages,
- vii. customs, and
- viii. heritage;

(b) provides a substantial focus on wilderness and the natural environment;

(c) assists with the development and use of intellectual skills;

(d) includes structured interaction among children where supervisors teach or assist children to develop interpersonal skills; or

(e) provides enrichment or tutoring in academic subjects;

“child with an impairment”;

“child with an impairment” for a taxation year means a child in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the year;

“eligible child”;

“eligible child” of an individual for a taxation year means a child of the individual who, at the beginning of the year, is at least 5 years of age and has not reached 16 years of age or, if the child is a child with an impairment for the year, 18 years of age;

“eligible expense”;

“eligible expense” of an individual for a taxation year in respect of an eligible child of the individual for the year means, subject to section 1029.8.66.7, an amount paid in the year by the individual to a person, other than a person who is, when the payment is made, the individual’s spouse or under 18 years of age, or to a partnership, to the extent that the amount is attributable to the cost of registration or membership of the child in a recognized program of activities offered by the person or partnership;

“eligible expenses limit”;

“eligible expenses limit” applicable for a taxation year in respect of an individual’s eligible child for the year means

(a) where the child is a child with an impairment for the year, an amount equal to

- i. \$200, for the taxation year 2013,
- ii. \$400, for the taxation year 2014,
- iii. \$600, for the taxation year 2015,
- iv. \$800, for the taxation year 2016, and
- v. \$1,000, for a taxation year subsequent to 2016; and

(b) in any other case, an amount equal to

- i. \$100, for the taxation year 2013,
- ii. \$200, for the taxation year 2014,
- iii. \$300, for the taxation year 2015,
- iv. \$400, for the taxation year 2016, and
- v. \$500, for a taxation year subsequent to 2016;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“excluded individual”;

“excluded individual” for a taxation year means

(a) an individual whose family income for the year exceeds \$130,000; or

(b) an individual who is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002) or that individual’s eligible spouse for the year;

“family income”;

“family income” of an individual for a taxation year means the aggregate of the income of the individual for the year and the income, for the year, of the individual’s eligible spouse for the year;

“physical activity”;

“physical activity” means a supervised activity that is suitable for children (other than an activity where a child rides on or in a motor vehicle as an essential component of the activity) and that

(a) where the child is a child with an impairment, enables the child to move around and observably expend energy in a recreational context; and

(b) in any other case, contributes to cardiorespiratory endurance and the development of any of the following aptitudes:

- i. muscular strength,
- ii. muscular endurance,
- iii. flexibility, and
- iv. balance;

“recognized program of activities”.

“recognized program of activities” means

(a) a weekly program of a duration of eight or more consecutive weeks in which all or substantially all the activities include a significant amount of physical activity or artistic, cultural, recreational or developmental activity;

(b) a program of a duration of five or more consecutive days of which more than 50% of the daily activities include a significant amount of physical activity or artistic, cultural, recreational or developmental activity;

(c) a program of a duration of eight or more consecutive weeks, offered to children by a club, association or similar organization (in this definition referred to as an “entity”) in circumstances where a participant in the program may select amongst a variety of activities if

i. more than 50% of the activities offered to children by the entity are activities that include a significant amount of physical activity or artistic, cultural, recreational or developmental activity, or

ii. more than 50% of the time scheduled for activities offered to children in the program is scheduled for activities that include a significant amount of physical activity or artistic, cultural, recreational or developmental activity;

(d) a membership in an entity of a duration of eight or more consecutive weeks if more than 50% of the activities offered to children by the entity include a significant amount of physical activity or artistic, cultural, recreational or developmental activity;

(e) a portion of a program (other than a program described in paragraph *c*) of a duration of eight or more consecutive weeks, offered to children by an entity in circumstances where a participant may select amongst a variety of activities

i. that is the percentage of the activities offered to children by the entity that are activities that include a significant amount of physical activity or artistic, cultural, recreational or developmental activity, or

ii. that is the percentage of the time scheduled for activities in the program that is scheduled for activities that include a significant amount of physical activity or artistic, cultural, recreational or developmental activity; or

(f) a portion of a membership in an entity (other than a membership described in paragraph *d*) of a duration of eight or more consecutive weeks that is the percentage of the activities offered to children by the entity that are activities that include a significant amount of physical activity or artistic, cultural, recreational or developmental activity.

Physical activity — rule.

For the purposes of the definition of “physical activity” in the first paragraph, horseback riding is deemed to be an activity that contributes to cardiorespiratory endurance and the development of the aptitudes listed in subparagraphs *i* to *iv* of paragraph *b* of that definition.

Eligible expense — rule.

For the purposes of the definition of “eligible expense” in the first paragraph, the cost of registration or membership in a program offered by a person or a partnership includes the cost to the person or partnership with respect to the program’s administration, courses, rental of required facilities, and uniforms and equipment that the participants in the program may not acquire for a price that is lower than their fair market value at the time, if any, they are so acquired, but does not include the cost of accommodation, travel, food or beverages.

Recognized program of activities — rule.

For the purposes of the definition of “recognized program of activities” in the first paragraph, a child’s participation in a program or a portion of a program and the child’s membership in a club, association or similar organization must not be part of a school’s curriculum.

Family income — rule.

For the purposes of the definition of “family income” in the first paragraph, where an individual was not resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 2015, c. 21, s. 483.

Ineligible expenses.

1029.8.66.7. An individual’s eligible expense for a taxation year does not include

(a) an amount that was deducted in computing a taxpayer’s income or taxable income;

(b) an amount that was taken into account in computing

i. an amount deducted in computing an individual’s tax payable under this Part, or

ii. an amount that an individual is deemed to have paid to the Minister on account of the individual’s tax payable under this chapter, but otherwise than under this division; and

(c) an amount in respect of which a taxpayer is or was entitled to a reimbursement, or another form of assistance, except to the extent that the amount is included in computing the income of any taxpayer and is not deductible in computing that taxpayer’s income or taxable income.

History: 2015, c. 21, s. 483.

Child with an impairment — increase to the amount of an individual’s eligible expenses.

1029.8.66.8. If the aggregate of all eligible expenses for a particular taxation year, in respect of an eligible child who is, for the particular year, a child with an impairment, each of which is an amount paid at any time in the year by an individual or by the individual’s spouse at that time, is at least equal to 25% of the amount specified for the particular year in paragraph *b* of the definition of “eligible expenses limit” in the first paragraph of section 1029.8.66.6, the individual may add to the individual’s eligible expenses for the particular year in respect of the child, an amount not exceeding the amount specified in that paragraph for the particular year.

Limitation.

If, for a taxation year, more than one individual may add to the aggregate of their respective eligible expenses an amount under the first paragraph, in respect of the same eligible child, the total of the amounts those individuals may so include under that paragraph for the year may not exceed the

amount specified for the year in paragraph *b* of the definition of “eligible expenses limit” in the first paragraph of section 1029.8.66.6.

Apportionment.

If those individuals cannot agree as to what portion of the amount they each could, under this section, include in the aggregate of their respective eligible expenses, the Minister may determine that portion of the amount for the year.

History: 2015, c. 21, s. 483.

§2. — Credit

Credit.

1029.8.66.9. An individual who is resident in Québec at the end of 31 December of a taxation year, other than an excluded individual for the year, and who files a fiscal return under section 1000 for that year is deemed to have paid to the Minister, on the individual’s balance-due day for that year, on account of the individual’s tax payable for that year under this Part, an amount equal to 20% of the aggregate of all amounts each of which is, in respect of an eligible child of the individual for the year, the lesser of

(a) the aggregate of the individual’s eligible expenses for the year and, if applicable, those of the individual’s eligible spouse for the year, in respect of the child; and

(b) the eligible expenses limit that applies for the year in respect of the child.

Application.

For the purposes of this section, an individual who was resident in Québec immediately before the individual’s death is deemed to be resident in Québec at the end of 31 December of the year in which the individual died.

Restriction.

An individual may be deemed to have paid an amount to the Minister under the first paragraph for a taxation year in respect of an eligible expense only if the individual holds a receipt, containing the prescribed information and constituting proof of payment of the expense, issued by the person or partnership who offered the eligible child a recognized program of activities.

History: 2015, c. 21, s. 483.

More than one individual.

1029.8.66.10. If, for a taxation year, more than one individual may be deemed to have paid an amount to the Minister under section 1029.8.66.9 in respect of the same eligible child, the total of the amounts each of those individuals would otherwise be deemed to have paid to the Minister under that section for the year, in relation to the

eligible child, may not exceed the particular amount that only one of those individuals would be deemed to have paid to the Minister under that section for the year, in relation to the eligible child, if that individual’s eligible expenses for the year were composed of all the eligible expenses, determined otherwise in respect of the eligible child, of all of those individuals for the year.

Apportionment.

If those individuals cannot agree as to what portion of the particular amount each would be deemed to have paid to the Minister under section 1029.8.66.9, the Minister may determine what portion of that amount is deemed paid by each individual under that section.

History: 2015, c. 21, s. 483.

DIVISION II.12.3

CREDIT FOR SENIORS’ ACTIVITIES

§1. — Interpretation and general rules

Definitions:

1029.8.66.11. In this division,

“*artistic, cultural or recreational activity*”;

“artistic, cultural or recreational activity” means any structured activity, other than physical activity, that

(a) is designed to enhance a person’s ability to develop creative skills, to acquire and apply knowledge or to improve dexterity or coordination in an artistic or cultural discipline, such as

i. literary arts,

ii. visual arts,

iii. handicrafts,

iv. song, music or theatre, and

v. languages;

(b) provides a substantial focus on wilderness and the natural environment;

(c) provides a substantial focus on information and communications technologies;

(d) provides a support for skills development; or

(e) assists with the development and use of intellectual skills;

“*eligible expense*”;

“eligible expense” of an eligible individual for a taxation year means, subject to section 1029.8.66.13, an amount paid in the year to a person or partnership, other than a person or partnership that is, when the payment is made, described in section 1029.8.66.12 in relation to the eligible individual, to the extent that the amount is attributable to the cost of

registration or membership of the eligible individual in a recognized program of activities offered by the person or partnership;

“eligible individual”;

“eligible individual” for a taxation year means an individual, other than an excluded individual for the year, who, at the end of 31 December of the year, is 70 years of age or over and is resident in Québec or who, if the individual died in the year, had reached that age and was resident in Québec immediately before the death;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“excluded individual”;

“excluded individual” for a taxation year means

(a) an individual whose income for the year exceeds \$40,000; or

(b) an individual who is exempt from tax for the year under section 982 or 983 or any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002) or that individual’s eligible spouse for the year;

“physical activity”;

“physical activity” means any structured activity, other than an activity where a person rides on or in a motor vehicle as an essential component of the activity, that contributes to the maintenance or development of cardiorespiratory endurance, muscular strength, muscular endurance, flexibility or balance;

“private seniors’ residence”;

“private seniors’ residence” has the meaning that would be assigned by the first paragraph of section 1029.8.61.1 if the definition were read without reference to “for a particular month” and “, at the beginning of the particular month,”;

“recognized program of activities”.

“recognized program of activities” means

(a) a weekly program of a duration of eight or more consecutive weeks in which all or substantially all the activities include a significant amount of physical activity or artistic, cultural or recreational activity;

(b) a program of a duration of five or more consecutive days of which more than 50% of the daily activities include a significant amount of physical activity or artistic, cultural or recreational activity;

(c) a program of a duration of eight or more consecutive weeks offered to seniors by a club, association or similar organization (in this definition referred to as an “entity”) in circumstances where a participant in the program may select amongst a variety of activities if

i. more than 50% of the activities offered to seniors by the entity are activities that include a significant amount of

physical activity or artistic, cultural or recreational activity, or

ii. more than 50% of the time scheduled for activities offered to seniors in the program is scheduled for activities that include a significant amount of physical activity or artistic, cultural or recreational activity;

(d) a membership in an entity of a duration of eight or more consecutive weeks if more than 50% of the activities offered to seniors by the entity include a significant amount of physical activity or artistic, cultural or recreational activity;

(e) a portion of a program (other than a program described in paragraph *c*) of a duration of eight or more consecutive weeks, offered to seniors by an entity in circumstances where a participant may select amongst a variety of activities

i. that is the percentage of the activities offered to seniors by the entity that are activities that include a significant amount of physical activity or artistic, cultural or recreational activity, or

ii. that is the percentage of the time scheduled for activities in the program that is scheduled for activities that include a significant amount of physical activity or artistic, cultural or recreational activity; or

(f) a portion of a membership in an entity (other than a membership described in paragraph *d*) of a duration of eight or more consecutive weeks that is the percentage of the activities offered to seniors by the entity that are activities that include a significant amount of physical activity or artistic, cultural or recreational activity.

Eligible expense — rule.

For the purposes of the definition of “eligible expense” in the first paragraph, the cost of registration or membership in a program offered by a person or a partnership includes the cost to the person or partnership with respect to the program’s administration, courses, rental of required facilities, and uniforms and equipment that the participants in the program may not acquire for a price that is lower than their fair market value at the time, if any, they are so acquired, but does not include the cost of accommodation, travel, food or beverages.

Excluded individual — rule.

For the purposes of the definition of “excluded individual” in the first paragraph, where an individual was not resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 2015, c. 21, s. 483.

Person or partnership.

1029.8.66.12. A person or partnership to which the definition of “eligible expense” in the first paragraph of section 1029.8.66.11 refers in relation to an eligible individual is a person or partnership that

(a) operates a private seniors’ residence or is a private institution not under agreement that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2) if the eligible individual lives in the residence or in a facility maintained by the institution, as the case may be; or

(b) is related to the eligible individual and does not hold a registration number under the Act respecting the Québec sales tax (chapter T-0.1).

History: 2015, c. 21, s. 483.

Ineligible expenses.

1029.8.66.13. An eligible individual’s eligible expense for a taxation year does not include

(a) an amount that was taken into account in computing

i. an amount deducted in computing an individual’s tax payable under this Part, or

ii. an amount that an individual is deemed to have paid to the Minister on account of the individual’s tax payable under this chapter, but otherwise than under this division; and

(b) an amount in respect of which a taxpayer is or was entitled to a reimbursement, or another form of assistance, except to the extent that the amount is included in computing the income of any taxpayer and is not deductible in computing the taxpayer’s income or taxable income.

History: 2015, c. 21, s. 483.

§2. — *Credit***Credit.**

1029.8.66.14. An eligible individual for a taxation year who files a fiscal return under section 1000 for that year is deemed to have paid to the Minister, on the individual’s balance-due day for that year, on account of the individual’s tax payable for that year under this Part, an amount equal to 20% of the lesser of \$200 and the total of eligible expenses paid in the year by the eligible individual or by the person who is the eligible individual’s spouse at the time of payment.

Restriction.

An eligible individual may be deemed to have paid an amount to the Minister under the first paragraph for a taxation year in respect of an eligible expense only if the

eligible individual holds a receipt, containing the prescribed information and constituting proof of payment of the expense, issued by the person or partnership that offered the eligible individual a recognized program of activities.

History: 2015, c. 21, s. 483.

DIVISION II.13**CREDIT FOR CHILD CARE EXPENSES**§1. — *Interpretation***Definitions:**

1029.8.67. In this division,

“*child care expense*”;

“child care expense” of an individual for a taxation year means an expense that is neither prescribed nor excluded under section 1029.8.68 and that

(a) is incurred in the year for the purpose of providing child care services in Canada including baby sitting services, day nursery services or services provided at a boarding school or a camp for an eligible child of the individual for the year;

(b) is incurred to enable the individual, or, subject to the second paragraph of section 1029.8.81, the individual’s eligible spouse for the year, who resides with the child at the time the expense is incurred,

i. to perform the duties of an office or employment,

ii. to carry on a business, either alone or as a partner actively engaged in the business,

iii. to carry on research or any similar work for which the individual or the individual’s eligible spouse for the year received a grant,

iv. to attend a qualified educational institution, where the individual or the individual’s eligible spouse for the year is enrolled in an educational program of not less than three consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program or not less than 12 hours per month on courses in the program, as the case may be, or

v. to actively seek employment; and

(c) is paid by the individual, or by the individual’s eligible spouse for the year, for services provided in the year by a person resident in Canada other than, at the time the services are provided,

i. the child’s father or mother,

ii. a person with whom the individual is living in a conjugal relationship,

iii. a person who resides with the individual and for whom the child in respect of whom the expense was incurred is an eligible child for the year,

iv. a person under 18 years of age related to the individual or to the person with whom the individual is living in a conjugal relationship, or

v. a person in respect of whom either the individual or a person who resides with the individual and for whom the child in respect of whom the expense was incurred is an eligible child for the year, deducts an amount in computing tax payable for the year under section 752.0.1 or 776.41.14;

“eligible child”;

“eligible child” of an individual for a taxation year means a child of the individual or of the individual’s spouse, or a child who is a dependant of the individual or of the individual’s spouse and whose income for the year does not exceed \$10,482, if, in any case, at any time during the year, the child is under 16 years of age or is dependent on the individual or on the individual’s spouse and has a mental or physical infirmity;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”;

“family income” of an individual for a taxation year means the aggregate of the income of the individual for the year and the income, for the year, of the person who is the individual’s eligible spouse for the year;

“qualified child care expense”;

“qualified child care expense” of an individual for a taxation year means the lesser of

(a) an amount that, subject to section 1029.8.69 and the first paragraph of section 1029.8.81, is equal to the aggregate of the individual’s child care expenses for the year; and

(b) the total of the product obtained when \$13,220 is multiplied by the number of eligible children of the individual for the year each of whom is a person described in section 1029.8.76 and in respect of whom child care expenses referred to in paragraph *a* were incurred, the product obtained when \$9,660 is multiplied by the number of eligible children of the individual for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom such expenses were incurred, and the product obtained when \$5,085 is multiplied by the number of all other eligible children of the individual for the year in respect of whom such expenses were incurred;

“qualified educational institution”.

“qualified educational institution” means an educational institution referred to in subparagraph *i* of paragraph *a* of section 752.0.18.10 or a secondary school.

History: 1995, c. 1, s. 162; 1997, c. 31, s. 119; 1997, c. 85, s. 265; 1998, c. 16, s. 233; 2000, c. 5, s. 270; 2001, c. 51, s. 195; 2001, c. 53, s. 222; 2002, c. 40, s. 210; 2003, c. 2, s. 278; 2003, c. 9, s. 348; 2005, c. 1, s. 258; 2005, c. 38, s. 287; 2007, c. 12, s. 207; 2009, c. 5, s. 460 [amended by 2010, c. 5, s. 247]; 2009, c. 15, s. 329; 2010, c. 5, s. 161; 2015, c. 21, s. 484; 2017, c. 1, s. 311; 2017, c. 29, s. 193; 2019, c. 14, s. 391.

Corresponding Federal Provision: 63(3).

Included expenses.

1029.8.67.1. For the purposes of this division, the child care expense of an individual for a taxation year includes, despite the definition of that expression in section 1029.8.67, the expense incurred to care for a child throughout the period of the year during which the individual, or the individual’s eligible spouse for the year, receives benefits relating to a birth or an adoption under the Act respecting parental insurance (chapter A-29.011), the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or a similar Act of a province other than Québec.

History: 2009, c. 15, s. 330.

Excluded expenses.

1029.8.68. For the purposes of the definition of “child care expense” in section 1029.8.67, the child care expenses of an individual for a taxation year do not include the amounts paid for an eligible child of the individual who attends, in the year, a boarding school or camp to the extent that the total of those amounts exceeds the product obtained when \$275, if the child is a person described in section 1029.8.76, \$200, if the child is under seven years of age on 31 December of that year, or would have been had the child then been living, or \$125, in any other case, is multiplied by the number of weeks in the year during which the child attended the school or camp, nor the medical expenses described in sections 752.0.11 to 752.0.13.0.1 or any other amounts paid for medical or hospital care, clothing, transportation, general or specific education services, or board or lodging, other than such expenses described in that definition.

History: 1995, c. 1, s. 162; 1997, c. 14, s. 237; 2000, c. 39, s. 192; 2001, c. 51, s. 196; 2003, c. 2, s. 279; 2009, c. 5, s. 461; 2017, c. 1, s. 312.

Corresponding Federal Provision: 63(3) “eligible child”.

Rules of application.

1029.8.69. For the purpose of determining an individual’s qualified child care expenses for a taxation year, the individual may include, in the aggregate of the individual’s child care expenses for the year, an amount paid as such,

(a) only if, where paragraph *a.1* does not apply, proof of payment of the amount is provided by filing with the Minister one or more receipts each of which was issued by the payee and contains, where the payee is an individual, the individual's Social Insurance Number;

(a.1) only if, where the amount was paid to a person required, under the regulations made under section 1086, to send, in respect of that amount, an information return to the individual or the individual's eligible spouse, the individual attaches a copy of the information return to the fiscal return the individual is required to file for the year under section 1000, or would be so required to file if the individual had tax payable for the year under this Part; and

(b) only to the extent that the amount

i. is not taken into account in computing the amount that another individual, except the individual's eligible spouse for the year, is deemed to have paid to the Minister under section 1029.8.79, and

ii. is not an amount, other than an amount that is included in computing a taxpayer's income and that is not deductible in computing his taxable income, in respect of which any taxpayer is or was entitled to a reimbursement or any other form of assistance.

History: 1995, c. 1, s. 162; 1997, c. 14, s. 238; 2000, c. 39, s. 193; 2003, c. 9, s. 349; 2009, c. 5, s. 462.

1029.8.70. *(Repealed).*

History: 1995, c. 1, s. 162; 1997, c. 14, s. 239; 1998, c. 16, s. 234; 2000, c. 39, s. 194; 2001, c. 53, s. 223; 2003, c. 2, s. 280; 2006, c. 13, s. 192; 2009, c. 5, s. 463.

1029.8.71. *(Repealed).*

History: 1995, c. 1, s. 162; 1997, c. 14, s. 240; 1998, c. 16, s. 235; 2000, c. 39, s. 195; 2001, c. 53, s. 224; 2003, c. 2, s. 281; 2003, c. 9, s. 350; 2009, c. 5, s. 463.

1029.8.72. *(Repealed).*

History: 1995, c. 1, s. 162; 2009, c. 5, s. 463.

Part-year residents.

1029.8.73. Where an individual is resident in Canada during part of a taxation year but is not resident in Canada during another part of the year, the definition of "child care expense" in section 1029.8.67 shall, for that year in respect of that individual, be read as though the reference to "services provided during the year" were replaced by a reference to "services provided during a period of the year during which the individual is resident in Canada".

History: 1995, c. 1, s. 162; 2009, c. 5, s. 464.

Individual absent from Canada but resident in Québec.

1029.8.74. Where an individual is absent from Canada but resident in Québec for all or part of a taxation year,

(a) the definition of "child care expense" in section 1029.8.67, for that year in respect of that individual, is to be read without reference to "in Canada" and "resident in Canada"; and

(b) paragraph *a* of section 1029.8.69, for that year in respect of that individual, if the expenses referred to in that paragraph were paid to a person not resident in Canada, is to be read without reference to "and contains, where the payee is an individual, the individual's Social Insurance Number".

History: 1995, c. 1, s. 162; 2009, c. 5, s. 465.

Corresponding Federal Provision: 64.1.

Commuter's child expenses.

1029.8.75. Where, in a taxation year, a person is resident in Canada, near the boundary between Canada and the United States and while so resident incurs expenses for child care that would be child care expenses if the definition of "child care expense" in section 1029.8.67 were read without reference to "in Canada" and to "resident in Canada",

(a) those expenses (other than amounts paid for a child's attendance at a boarding school or camp outside Canada) are deemed to be child care expenses of the person for the year for the purposes of this division if the child care services are provided at a place that is closer to the person's principal place of residence by a reasonably accessible road, in view of the circumstances, than any place in Canada where such child care services are available; and

(b) if the expenses are deemed under paragraph *a* to be child care expenses of the person for the year, paragraph *a* of section 1029.8.69, in respect of those expenses, is to be read without reference to "and contains, where the payee is an individual, the individual's Social Insurance Number".

History: 1995, c. 1, s. 162; 2009, c. 5, s. 466.

Corresponding Federal Provision: 63(4).

Eligible child.

1029.8.76. The person to whom paragraph *b* of the definition of "qualified child care expense" in section 1029.8.67 and section 1029.8.68 refer for a taxation year is an eligible child in respect of whom subparagraphs *a* to *d* of the first paragraph of section 752.0.14 apply for that year.

History: 1995, c. 1, s. 162; 1997, c. 85, s. 266; 1998, c. 16, s. 236; 2005, c. 38, s. 288; 2009, c. 5, s. 467.

1029.8.77. *(Repealed).*

History: 1995, c. 1, s. 162; 1997, c. 85, s. 267; 2000, c. 39, s. 196; 2003, c. 9, s. 351.

Individual not resident in Canada.

1029.8.77.1. For the purposes of the definition of “family income” in section 1029.8.67, the income for a taxation year of an individual who was not resident in Canada throughout the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, if the individual died in the year, throughout the period of the year preceding the time of death.

History: 1997, c. 85, s. 268; 2001, c. 53, s. 225; 2003, c. 9, s. 352; 2009, c. 15, s. 331.

1029.8.78. (*Repealed*).

History: 1995, c. 1, s. 162; 1997, c. 85, s. 269.

§2. — *Credit***Credit for child care expenses.**

1029.8.79. An individual who either is resident in Québec on the last day of a taxation year, or is resident in Canada outside Québec on the last day of a taxation year and carried on a business in Québec at any time in the taxation year, is deemed to have paid to the Minister, on the individual’s balance-due day for that taxation year, on account of the individual’s tax payable for that year under this Part, an amount equal, for the year,

(a) if the individual is resident in Québec on the last day of the taxation year or, if the individual is resident in Canada outside Québec on the last day of the taxation year, carried on a business in Québec at any time in the year and has an eligible spouse for the year who is resident in Québec on the last day of the year, to the amount obtained by applying the appropriate percentage determined under section 1029.8.80 in respect of the individual for the year to the individual’s qualified child care expenses for the year;

(b) if the individual is resident in Canada outside Québec on the last day of the taxation year, carried on a business in Québec at any time in the year and either does not have an eligible spouse for the year or the individual’s eligible spouse for the year is, on the last day of the year, neither a person resident in Québec, nor a person resident in Canada outside Québec who carried on a business in Québec at any time in the year, to the product obtained by multiplying the proportion referred to in the second paragraph of section 25 by the amount obtained by applying the percentage referred to in paragraph *d* of section 750 to the individual’s qualified child care expenses for the year; and

(c) if the individual and the individual’s eligible spouse for the year are resident in Canada outside Québec on the last day of the taxation year and carried on a business in Québec at any time in the year, to the product obtained by multiplying the average of the proportions each of which is

referred to in the second paragraph of section 25 and established in respect of the individual or the individual’s eligible spouse for the year, by the amount obtained by applying the percentage referred to in paragraph *d* of section 750 to the individual’s qualified child care expenses for the year.

Individual who dies or ceases to be resident in Canada.

For the purposes of this section, if an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual’s taxation year is the day on which the individual died or the last day the individual was resident in Canada.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 207; 1997, c. 31, s. 143; 2000, c. 39, s. 197; 2003, c. 9, s. 353; 2006, c. 36, s. 204; 2009, c. 5, s. 468; 2015, c. 21, s. 485.

Tax credit rate.

1029.8.80. The percentage to which the first paragraph of section 1029.8.79 refers in respect of an individual for a taxation year is

(a) 75% if the individual’s family income for the year does not exceed \$35,950;

(b) 74% if the individual’s family income for the year exceeds \$35,950 but does not exceed \$37,280;

(c) 73% if the individual’s family income for the year exceeds \$37,280 but does not exceed \$38,620;

(d) 72% if the individual’s family income for the year exceeds \$38,620 but does not exceed \$39,940;

(e) 71% if the individual’s family income for the year exceeds \$39,940 but does not exceed \$41,275;

(f) 70% if the individual’s family income for the year exceeds \$41,275 but does not exceed \$42,600;

(g) 69% if the individual’s family income for the year exceeds \$42,600 but does not exceed \$43,950;

(h) 68% if the individual’s family income for the year exceeds \$43,950 but does not exceed \$45,275;

(i) 67% if the individual’s family income for the year exceeds \$45,275 but does not exceed \$46,605;

(j) 66% if the individual’s family income for the year exceeds \$46,605 but does not exceed \$47,925;

(k) 65% if the individual’s family income for the year exceeds \$47,925 but does not exceed \$49,275;

(l) 64% if the individual’s family income for the year exceeds \$49,275 but does not exceed \$50,600;

- (m) 63% if the individual's family income for the year exceeds \$50,600 but does not exceed \$51,930;
- (n) 62% if the individual's family income for the year exceeds \$51,930 but does not exceed \$53,255;
- (o) 61% if the individual's family income for the year exceeds \$53,255 but does not exceed \$54,595;
- (p) 60% if the individual's family income for the year exceeds \$54,595 but does not exceed \$98,530;
- (q) 57% if the individual's family income for the year exceeds \$98,530 but does not exceed \$141,450;
- (r) 54% if the individual's family income for the year exceeds \$141,450 but does not exceed \$142,795;
- (s) 52% if the individual's family income for the year exceeds \$142,795 but does not exceed \$144,135;
- (t) 50% if the individual's family income for the year exceeds \$144,135 but does not exceed \$145,470;
- (u) 48% if the individual's family income for the year exceeds \$145,470 but does not exceed \$146,815;
- (v) 46% if the individual's family income for the year exceeds \$146,815 but does not exceed \$148,155;
- (w) 44% if the individual's family income for the year exceeds \$148,155 but does not exceed \$149,490;
- (x) 42% if the individual's family income for the year exceeds \$149,490 but does not exceed \$150,835;
- (y) 40% if the individual's family income for the year exceeds \$150,835 but does not exceed \$152,175;
- (z) 38% if the individual's family income for the year exceeds \$152,175 but does not exceed \$153,500;
- (z.1) 36% if the individual's family income for the year exceeds \$153,500 but does not exceed \$154,855;
- (z.2) 34% if the individual's family income for the year exceeds \$154,855 but does not exceed \$156,190;
- (z.3) 32% if the individual's family income for the year exceeds \$156,190 but does not exceed \$157,545;
- (z.4) 30% if the individual's family income for the year exceeds \$157,545 but does not exceed \$158,880;
- (z.5) 28% if the individual's family income for the year exceeds \$158,880 but does not exceed \$160,220; and

(z.6) 26% if the individual's family income for the year exceeds \$160,220.

History: 1995, c. 1, s. 162; 1997, c. 85, s. 270; 2001, c. 51, s. 197; 2005, c. 1, s. 259; 2009, c. 15, s. 332; 2019, c. 14, s. 392.

Credit claimed by both spouses.

1029.8.80.0.1. Where, for a taxation year, a particular individual referred to in section 1029.8.79 has an eligible spouse for the year who is also an individual referred to in that section, the following rules apply:

(a) the amount the particular individual is deemed to have paid to the Minister for the year under section 1029.8.79, determined without reference to this section, shall be reduced by such portion of the amount as the particular individual and the eligible spouse agree to attribute to the eligible spouse for the year in the prescribed form filed with the Minister by the particular individual with the particular individual's fiscal return under this Part for the year;

(b) the amount the eligible spouse is deemed to have paid to the Minister for the year under section 1029.8.79, determined without reference to this section, shall be reduced by the amount determined for the year under paragraph *a* in respect of the particular individual;

(c) where the particular individual and the eligible spouse cannot agree on the portion of the amount that may be designated for the year in accordance with paragraph *a* in respect of the particular individual, the Minister may designate such portion and, for the purposes of paragraph *a*, the designation is deemed to have been made in prescribed form by the particular individual and the eligible spouse; and

(d) the amount determined for the year under paragraph *a* in respect of the particular individual and the amount determined for the year under paragraph *b* in respect of the eligible spouse are deemed to be the amount the particular individual is deemed to have paid to the Minister for the year under section 1029.8.79 and the amount the eligible spouse is deemed to have so paid to the Minister for the year, respectively.

History: 2000, c. 39, s. 198; 2003, c. 9, s. 354; 2020, c. 16, s. 160.

Certificate from spouse.

1029.8.80.1. An individual who has an eligible spouse for a taxation year shall not be deemed to have paid to the Minister an amount under section 1029.8.79 for the year unless the individual files with the Minister, together with the fiscal return the individual is required to file for the year under section 1000, or would be required to so file if tax were payable by the individual for the year under this Part, a certificate from the eligible spouse in prescribed form.

History: 1997, c. 85, s. 271; 2003, c. 9, s. 354.

§3. — *Advance payments and exceptional rule***Advance payments of the credit for child care expenses.**

1029.8.80.2. Where, on or before 15 October of a taxation year, an individual applies to the Minister in the prescribed form containing prescribed information, the Minister may pay in advance, according to the terms and conditions provided for in the second paragraph and in respect of the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister on account of the individual's tax payable for the year under the first paragraph of section 1029.8.79, an amount (in this subdivision referred to as the "amount of the advance relating to child care expenses") equal to the amount obtained by applying to the aggregate of the qualified child care expenses that the individual considers the individual is required to pay for the year the appropriate percentage determined in section 1029.8.80.3 in respect of the individual for the year, if

(a) the individual is resident in Québec at the time of the application;

(b) the individual is a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27) or a person who has been granted refugee protection in Canada by the competent Canadian authority in accordance with that Act;

(c) the individual is the father or mother of a child with whom the individual resides at the time of the application;

(d) at the time of the application, the individual is described in the portion of paragraph *c* of the definition of "child care expense" in section 1029.8.67 before subparagraph *i*;

(e) the person who cares for a child of the individual confirms the child care rate and the number of days during which the child will be cared for in the year;

(f) the amount that the individual considers to be the amount that the individual will be deemed, under the first paragraph of section 1029.8.79, to have paid to the Minister on account of the individual's tax payable for the year is greater than \$1,000, unless the amount that the individual considers to be the amount that the individual will be deemed, under the first paragraph of section 1029.8.116.5 or 1029.8.116.5.0.1, to have paid to the Minister on account of the individual's tax payable for the year is greater than \$500; and

(g) the individual has agreed that the advance payments be made by direct deposit in a bank account held at a financial institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Terms and conditions of payment.

The terms and conditions of payment of the amount of the advance relating to child care expenses to which the first paragraph refers are the following:

(a) if the Minister receives from the individual the application referred to in the first paragraph not later than 1 December of the preceding year, the amount of the advance relating to child care expenses is payable in 12 equal advance payments made on or before the fifteenth day of each month of the year; and

(b) if the Minister receives from the individual the application referred to in the first paragraph after 1 December of the preceding year and not later than 15 October of the year, the amount of the advance relating to child care expenses is payable in equal advance payments made on or before the fifteenth day of each month of the year that is subsequent to the particular month in which the application is received, if the application is received on the first day of that month, or, in any other case, that is subsequent to the month that follows the particular month;

(c) *(subparagraph repealed)*;

(d) *(subparagraph repealed)*.

Change in situation.

The individual shall notify the Minister with dispatch of any event which may affect the amount of the advance relating to child care expenses.

Application made by only one of the spouses.

Where, at the time of the application referred to in the first paragraph, an individual has a spouse, only one of them may make this application for the year.

History: 2005, c. 1, s. 260; 2009, c. 5, s. 469; 2009, c. 15, s. 333; 2011, c. 1, s. 83; 2011, c. 6, s. 199; 2011, c. 34, s. 101; 2012, c. 8, s. 233.

Rates applicable to advance payments of the credit for child care expenses.

1029.8.80.3. The percentage to which the first paragraph of section 1029.8.80.2 refers in respect of an individual for a taxation year is

(a) 75% if the individual's estimated family income for the year does not exceed \$35,950;

(b) 70% if the individual's estimated family income for the year exceeds \$35,950 but does not exceed \$42,600;

(c) 65% if the individual's estimated family income for the year exceeds \$42,600 but does not exceed \$49,275;

(d) 60% if the individual's estimated family income for the year exceeds \$49,275 but does not exceed \$98,530;

(e) 57% if the individual's estimated family income for the year exceeds \$98,530 but does not exceed \$141,450;

(f) 50% if the individual's estimated family income for the year exceeds \$141,450 but does not exceed \$145,470;

(g) *(paragraph repealed)*;

(h) 44% if the individual's estimated family income for the year exceeds \$145,470 but does not exceed \$149,490;

(i) 38% if the individual's estimated family income for the year exceeds \$149,490 but does not exceed \$153,500;

(j) 32% if the individual's estimated family income for the year exceeds \$153,500 but does not exceed \$157,545; and

(k) 26% if the individual's estimated family income for the year exceeds \$157,545.

History: 2005, c. 1, s. 260; 2009, c. 15, s. 334; 2019, c. 14, s. 393.

Additional documents or information.

1029.8.80.4. The Minister may require from any individual who makes an application for advance payments referred to in the first paragraph of section 1029.8.80.2 a document or information other than those provided for in that paragraph if the Minister considers the document or information necessary to evaluate the application.

History: 2011, c. 6, s. 200.

Refusal by the Minister.

1029.8.80.5. Despite the first paragraph of section 1029.8.80.2, the Minister is not required to grant an application for advance payments referred to in that paragraph for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application, received a payment of the amount of the advance relating to child care expenses for a preceding taxation year and, at the time the application is processed, has not filed a fiscal return for the preceding year; and

(b) the application is processed after the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 200.

Cessation or suspension of advance payment.

1029.8.80.6. The Minister may, at a particular time, cease to pay, or suspend the payment of, the amount of the advance relating to child care expenses to an individual for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application referred to in the first paragraph of section 1029.8.80.2 for the particular year, received a payment of the amount of the advance relating to child care expenses for a preceding taxation year and has not, as of the particular time, filed a fiscal return for the preceding year; and

(b) the particular time is subsequent to the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 200.

Suspension, reduction or cessation of advance payment.

1029.8.80.7. The Minister may suspend the payment of, reduce or cease to pay the amount of the advance relating to child care expenses if documents or information brought to the Minister's attention so warrant.

History: 2011, c. 6, s. 200.

Exempt individual.

1029.8.81. For the purposes of section 1029.8.79, for the purpose of determining the qualified child care expense of an individual for a taxation year, the aggregate of the individual's child care expenses for the year is deemed to be equal to zero, if the individual is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

Exempt eligible spouse.

For the purposes of paragraph *b* of the definition of "child care expense" in section 1029.8.67 and of subparagraphs *a* and *b* of the first paragraph of section 1029.8.79, a person is deemed not to be the eligible spouse of an individual for a taxation year if the person is exempt from tax for that year under any of the provisions referred to in the first paragraph.

History: 1995, c. 1, s. 162; 1995, c. 63, s. 208; 2007, c. 12, s. 208; 2009, c. 5, s. 470; 2010, c. 31, s. 175.

1029.8.82. *(Repealed)*.

History: 1995, c. 1, s. 162; 1997, c. 14, s. 241.

DIVISION II.14

(Repealed).

§1. — *(Repealed)*.

1029.8.83. *(Repealed)*.

History: 1995, c. 63, s. 209; 1998, c. 46, s. 65; 2000, c. 56, s. 158; 2005, c. 23, s. 229.

1029.8.84. *(Repealed)*.

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.85. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.86. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.87. *(Repealed).*

History: 1995, c. 63, s. 209; 1998, c. 46, s. 65; 2005, c. 23, s. 229.

1029.8.88. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

§2. — *(Repealed).***1029.8.89.** *(Repealed).*

History: 1995, c. 63, s. 209; 1997, c. 31, s. 143; 2005, c. 23, s. 229.

1029.8.90. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.91. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.92. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

DIVISION II.15*(Repealed).*§1. — *(Repealed).***1029.8.93.** *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

§2. — *(Repealed).***1029.8.94.** *(Repealed).*

History: 1995, c. 63, s. 209; 1997, c. 14, s. 242; 1997, c. 31, s. 143; 2005, c. 23, s. 229.

1029.8.95. *(Repealed).*

History: 1995, c. 63, s. 209; 1997, c. 14, s. 243.

1029.8.96. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.97. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.98. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

1029.8.99. *(Repealed).*

History: 1995, c. 63, s. 209; 1997, c. 14, s. 244; 2005, c. 23, s. 229.

1029.8.100. *(Repealed).*

History: 1995, c. 63, s. 209; 2005, c. 23, s. 229.

DIVISION II.16**PAYMENT OF QUÉBEC SALES TAX CREDIT**§1. — *Interpretation***Definitions:****1029.8.101.** In this division,**“eligible individual”;**

“eligible individual” for a taxation year means an individual who is resident in Québec at the end of 31 December of the year and is, at that time, an emancipated minor, 19 years of age or over, the spouse of another individual, or the father or mother of a child with whom the individual resides, but who is not one of the following persons:

(a) a person in respect of whom another individual receives, for the year, an amount deemed under section 1029.8.61.18 to be an overpayment of the other individual’s tax payable or a person in respect of whom another individual deducts an amount in computing the other individual’s tax payable for the year under section 776.41.14;

(b) a person who is a dependant of another individual whom the other individual designates for the year for the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 or subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1; or

(c) a person in respect of whom another individual includes an amount, by virtue of paragraph *c* of section 1029.8.114, for the purpose of determining the amount that that other individual is deemed to have paid for the year under that section;

“eligible spouse”;

“eligible spouse” of an eligible individual for a taxation year means the person who is the eligible individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4, unless, at the end of 31 December of the year or, if the person died in the year, immediately before the person’s death,

(a) the person was not resident in Québec; or

(b) the person was confined to a prison or similar institution and had been so confined during the year for one or more periods totalling more than six months;

“family income”;

“family income” of an eligible individual for a taxation year means the amount by which the aggregate of the income of the eligible individual for the year and the income, for the year, of the eligible individual’s eligible spouse for the year exceeds \$27,635;

“month specified”.

“month specified” for a taxation year means the month of August and the month of December of the following taxation year.

History: 1997, c. 85, s. 272; 2002, c. 40, s. 211; 2003, c. 9, s. 355; 2005, c. 1, s. 261; 2009, c. 5, s. 471; 2009, c. 15, s. 335.

Corresponding Federal Provision: 122.5(1) and (4).

1029.8.102. *(Repealed).*

History: 1997, c. 85, s. 272; 2002, c. 40, s. 212; 2003, c. 9, s. 356.

Individual not resident in Canada throughout the year.

1029.8.103. For the purposes of the definition of “family income” in section 1029.8.101, where an individual was not resident in Canada throughout a taxation year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year.

History: 1997, c. 85, s. 272; 2001, c. 53, s. 226; 2003, c. 9, s. 357.

1029.8.104. *(Repealed).*

History: 1997, c. 85, s. 272; 2002, c. 40, s. 213.

§2. — *Credit***Québec sales tax credit.**

1029.8.105. An eligible individual for a taxation year preceding the taxation year 2010 is deemed, provided that the eligible individual makes an application therefor in the fiscal return the eligible individual is required to file under section 1000 for the year, or would be required to file if tax were payable under this Part by the eligible individual for the year, to have paid to the Minister, in each of the months specified for that year, on account of tax payable by the eligible individual under this Part for the year, an amount equal to half of the amount by which the total of the following amounts exceeds 3% of the eligible individual’s family income for the year:

(a) \$163 in respect of the eligible individual;

(b) \$163 in respect of the eligible individual’s eligible spouse for the year, where applicable; and

(c) \$110 if the eligible individual does not have an eligible spouse for the year and ordinarily lives, throughout the year, in a self-contained domestic establishment in which no other eligible individual for the year lives.

History: 1997, c. 85, s. 272 [amended by 1999, c. 83, s. 332]; 2002, c. 40, s. 214; 2003, c. 9, s. 358; 2005, c. 1, s. 262; 2011, c. 1, s. 84.

Corresponding Federal Provision: 122.5(1) “eligible individual” before (a) (part).

Reduction.

1029.8.105.1. The aggregate of all amounts each of which is an amount that an eligible individual is deemed to have paid to the Minister during a month specified for a taxation year under section 1029.8.105 is to be reduced by the aggregate of all amounts each of which is the portion of a last resort financial assistance benefit received in the year by the eligible individual or, as the case may be, the eligible individual’s eligible spouse for the year, under Chapter I or II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), that is attributable to the amount of the increase to account for the advance Québec sales tax credit provided for in section 66 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), as it read at the time of its application.

History: 2000, c. 39, s. 199; 2002, c. 40, s. 214; 2007, c. 12, s. 209.

Credit increase.

1029.8.105.2. An individual, other than a trust, who is resident in Québec at the end of 30 November 2001 and who is deemed to have paid, under section 1029.8.105 and before the application of section 1029.8.105.1, an amount greater than zero for the taxation year 2000, is deemed to have paid to the Minister, in December 2001, on account of the individual’s tax payable for that year under this Part, an amount equal to the aggregate of

(a) \$100 in respect of the individual; and

(b) \$100 in respect of the individual’s eligible spouse for the year, where applicable.

Death of an individual.

For the purposes of the first paragraph, where an individual dies after 31 December 2000 and before 1 December 2001 and the individual was resident in Québec immediately before the death, the individual is deemed to be resident in Québec at the end of 30 November 2001.

History: 2002, c. 40, s. 215.

1029.8.105.3. *(Repealed).*

History: 2010, c. 5, s. 162; 2011, c. 1, s. 85.

Special rules.

1029.8.106. For the purposes of section 1029.8.105, the following rules apply:

(a) where, for a taxation year, an eligible individual is the eligible spouse of another eligible individual, only one of them may make the application referred to in that section for the year;

(b) where, for a taxation year, the aggregate of the amounts deemed under that section to be paid by an eligible individual during the months specified for the year is equal to or less

than \$50, the eligible individual is deemed to have paid that aggregate during the first month specified for the year and no other amount is deemed to be paid under that section by the eligible individual for the year; and

(c) no amount is deemed to be paid under that section by an eligible individual for a taxation year during a month specified for that year if the eligible individual was not resident in Québec at the beginning of that month.

History: 1997, c. 85, s. 272; 2002, c. 40, s. 216.

Corresponding Federal Provision: 122.5(5).

Exemption from tax.

1029.8.107. An eligible individual shall not be deemed to have paid to the Minister an amount under section 1029.8.105 for a taxation year during a month specified for that year if the eligible individual or the eligible individual's eligible spouse for the year, where applicable, is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 1997, c. 85, s. 272; 2002, c. 40, s. 217; 2007, c. 12, s. 210; 2010, c. 31, s. 175.

Corresponding Federal Provision: 122.5(2)(d).

Individual confined to prison.

1029.8.108. An eligible individual may not be deemed to have paid an amount to the Minister under section 1029.8.105 for a taxation year in a month specified for that year if, at the end of 31 December of the year, the eligible individual was confined to a prison or similar institution and has been so confined during the year for one or more periods totalling more than six months.

History: 1997, c. 85, s. 272; 2002, c. 40, s. 217; 2009, c. 15, s. 336.

Corresponding Federal Provision: 122.5(2)(b).

Person deemed to be confined to a prison.

1029.8.108.1. For the purposes of the definition of "eligible spouse" in section 1029.8.101 and section 1029.8.108, a person who has been allowed, in a taxation year, to be temporarily absent from a prison or a similar institution to which the person has been confined is deemed to be confined to that prison or similar institution during each day of the year during which the person has been so allowed to be temporarily absent.

History: 2005, c. 1, s. 263.

Death of an individual.

1029.8.109. Where, before the beginning of a month specified for a taxation year, an eligible individual dies, the eligible individual shall not be deemed to have paid to the Minister, during that month, an amount under section 1029.8.105 for the year.

Eligible spouse of a deceased individual.

However, the amount that, but for the first paragraph, would be deemed to have been paid to the Minister by a deceased eligible individual during a month specified for a taxation year is deemed, subject to paragraph *c* of section 1029.8.106, to have been paid to the Minister by the eligible individual's eligible spouse for the year, during that month specified, on account of tax payable under this Part for the year, if the eligible individual's eligible spouse for the year did not die before the beginning of that month and provided the eligible spouse makes an application therefor in writing to the Minister, on or before the day on which the legal representative of the eligible individual is required to file with the Minister under section 1000 the eligible individual's fiscal return for the year of the eligible individual's death, or would be required to file if tax were payable under this Part by the eligible individual for that year.

History: 1997, c. 85, s. 272; 2002, c. 40, s. 217.

Corresponding Federal Provision: 122.5(2)(a) and (6).

Death of an individual.

1029.8.109.1. Where, before 1 December 2001, an individual dies, the individual shall not be deemed to have paid to the Minister, during that month, an amount under section 1029.8.105.2 for the taxation year 2000.

Eligible spouse of a deceased individual.

The amount that, but for the first paragraph, would be deemed to have been paid to the Minister by a deceased individual during the month of December 2001 is deemed to have been paid to the Minister by the individual's eligible spouse for the year, during that month, on account of tax payable under this Part for the taxation year 2000, if the individual's eligible spouse for the year did not die before the beginning of that month, is resident in Québec at the end of 30 November 2001 and makes an application therefor in writing to the Minister, on or before the day on which the legal representative of the individual is required to file with the Minister under section 1000 the individual's fiscal return for the year of the individual's death, or would be required to file if tax were payable under this Part by the individual for that year.

Exception.

Notwithstanding the second paragraph, the eligible spouse is not required to make the application referred to in that paragraph, where the eligible spouse made the application referred to in the second paragraph of section 1029.8.109 in relation to an amount that, but for the first paragraph of that section 1029.8.109, would be deemed to have been paid to the Minister by the deceased individual in a month specified on account of tax payable for the taxation year 2000.

History: 2002, c. 40, s. 218.

DIVISION II.16.1
TRANSITIONAL CREDIT FOR RECIPIENTS OF
LAST RESORT FINANCIAL ASSISTANCE

§1. — *Interpretation*

Definitions:

1029.8.109.2. In this division,

“adult”;

“adult” has the meaning assigned by section 24 of the Individual and Family Assistance Act (chapter A-13.1.1);

“dwelling unit”;

“dwelling unit” has the meaning assigned by section 43 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1);

“excluded adult”;

“excluded adult” means an adult referred to in section 67 of the Individual and Family Assistance Regulation, as it read before being repealed;

“family”;

“family” has the meaning assigned by section 25 of the Individual and Family Assistance Act;

“ineligible student”;

“ineligible student” means an adult described in paragraph 1 of section 27 of the Individual and Family Assistance Act;

“spouse”.

“spouse” has, despite section 2.2.1, the meaning assigned by section 22 of the Individual and Family Assistance Act.

Interpretation.

For the purposes of this division, sections 41 and 42 of the Individual and Family Assistance Regulation must be taken into consideration to determine whether an adult occupies the same dwelling unit as another independent adult or a family.

History: 2011, c. 1, s. 86.

§2. — *Credit*

Credit.

1029.8.109.3. If an adult, other than an excluded adult, and, if applicable, the adult’s spouse is, for a particular month that is in a taxation year and is included in the period beginning on 1 January 2010 and ending on 30 June 2011, a recipient under a financial assistance program provided for in Chapter I or II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), the aggregate of the following amounts is deemed for the particular month to be an overpayment of the adult’s tax payable under this Part for that year:

(a) \$14.92, if the financial assistance is paid for an independent adult or for a family composed of only one adult;

(b) \$29.83, if the financial assistance is paid for a family composed of two adults; and

(c) \$10.16, if the adult referred to in paragraph *a*, other than the spouse of an ineligible student, does not reside in the same dwelling unit as another independent adult or another family.

History: 2011, c. 1, s. 86.

Rules of application.

1029.8.109.4. If, in a particular month, an adult is the spouse of another adult, only one of them may benefit, for the particular month, from an amount deemed under section 1029.8.109.3 to be an overpayment of tax payable for a taxation year.

Credit amount added to benefits.

The amount that, for a particular month, is deemed under section 1029.8.109.3 to be an overpayment of an adult’s tax payable for the taxation year that includes the particular month is included in the computation of the social assistance benefit or social solidarity allowance paid by the Minister of Employment and Social Solidarity to the adult for that month under the Individual and Family Assistance Act (chapter A-13.1.1).

Deemed application of the second paragraph.

The amount that, for any of the months of January, February and March 2010, has been included in the computation of the social assistance benefit or social solidarity allowance paid by the Minister of Employment and Social Solidarity to an adult for that month to account for the advance Québec sales tax credit, in accordance with section 66 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), is deemed to have been included in that computation in accordance with the second paragraph and not to account for the advance sales tax credit.

Advance payment of solidarity tax credit.

If the second paragraph applies to any of the first six months of the taxation year 2011, the amount that, in accordance with that paragraph, is included in the computation of the social assistance benefit or social solidarity allowance paid by the Minister of Employment and Social Solidarity to an adult for that month accounts for an advance payment of an amount deemed under section 1029.8.116.16 to be an overpayment of the adult’s tax payable for the year.

Family composed of two adults.

However, the following presumptions must be taken into consideration for the purposes of the fourth paragraph if the

social assistance benefit or social solidarity allowance is paid for a family composed of two adults:

(a) the Minister of Employment and Social Solidarity is deemed to pay an amount equal to 50% of the benefit or allowance to each of those adults for the particular month; and

(b) the amount that, in accordance with the second paragraph, is included in the computation of the benefit or allowance paid to each of those adults is deemed to be equal to 50% of the amount that, for the particular month, is deemed, under section 1029.8.109.3, to be an overpayment of the tax payable by either of those adults for the taxation year 2011.

History: 2011, c. 1, s. 86.

Provisions applicable.

1029.8.109.5. Despite section 1007 and Chapter III of the Tax Administration Act (chapter A-6.002), Chapters II and III of Title III of the Individual and Family Assistance Act (chapter A-13.1.1) apply to this division, with the necessary modifications.

History: 2011, c. 1, s. 86; 2010, c. 31, s. 175.

Administration..

1029.8.109.6. On behalf of the Minister of Revenue, the Minister of Employment and Social Solidarity administers the payment of an amount deemed under section 1029.8.109.3 to be an overpayment of an adult's tax payable for a taxation year.

History: 2011, c. 1, s. 86.

DIVISION II.17

CREDIT FOR INDIVIDUALS LIVING IN THE TERRITORY OF A NORTHERN VILLAGE

§1. — *Interpretation*

Definitions:

1029.8.110. In this division,

“eligible individual”;

“eligible individual” for a taxation year means an individual who is resident in Québec at the end of 31 December of the year and is, at that time, an emancipated minor, 19 years of age or over, the spouse of another individual, or the father or mother of a child with whom the individual resides, but who is not one of the following persons:

(a) a person in respect of whom another individual receives, for the year, an amount deemed under section 1029.8.61.18 to be an overpayment of the other individual's tax payable or a person in respect of whom another individual deducts an amount in computing the other individual's tax payable for the year under section 776.41.14; or

(b) a person who is a dependant of another individual whom the other individual designates for the year for the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 or subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1;

“eligible spouse”;

“eligible spouse” of an eligible individual for a taxation year means a person who is the eligible individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“family income”;

“family income” of an eligible individual for a taxation year means the amount by which the aggregate of the income of the eligible individual for the year and the income, for the year, of the eligible individual's eligible spouse for the year exceeds \$27,635;

“month”;

“month” means a calendar month, being the period extending from the first to the last day of a month;

“month specified”;

“month specified” for a taxation year means the month of August and the month of December of the following taxation year;

“northern village”.

“northern village” means a municipality constituted in accordance with the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1).

History: 1999, c. 83, s. 220; 2002, c. 40, s. 219; 2003, c. 9, s. 359; 2005, c. 1, s. 264; 2009, c. 5, s. 472; 2009, c. 15, s. 337.

1029.8.111. (*Repealed*).

History: 1999, c. 83, s. 220; 2002, c. 40, s. 220; 2003, c. 9, s. 360.

Individual not resident in Canada throughout the year.

1029.8.112. For the purposes of the definition of “family income” in section 1029.8.110, where an individual was not resident in Canada throughout a taxation year, the individual's income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year.

History: 1999, c. 83, s. 220; 2001, c. 53, s. 227; 2003, c. 9, s. 361.

Dependant.

1029.8.113. For the purposes of paragraph *c* of section 1029.8.114 and subparagraph *c* of the second paragraph of section 1029.8.114.1, a person is a dependant, during a taxation year, of an eligible individual for the year or of the eligible individual's eligible spouse for the year if, during the year, the person is a person in respect of whom the individual or spouse receives, for the year, an amount deemed under section 1029.8.61.18 to be an overpayment of

tax payable or deducts an amount under section 776.41.14 in computing the tax payable for the year.

History: 1999, c. 83, s. 220; 2002, c. 40, s. 221; 2005, c. 1, s. 265; 2009, c. 5, s. 473.

§2. — *Credit*

Tax credit for individuals living in a northern village.

1029.8.114. An eligible individual for a taxation year preceding the taxation year 2010 is deemed, provided that the eligible individual makes an application therefor in the fiscal return the eligible individual is required to file under section 1000 for the year, or would be required to file if tax were payable under this Part by the eligible individual for the year, to have paid to the Minister, in each of the months specified for that year, on account of the eligible individual's tax payable under this Part for the year, an amount equal to half of the amount by which 15% of the eligible individual's family income for the year is exceeded by the amount obtained by multiplying the total of the following amounts by the number of months in the year during which the eligible individual lives in the territory of a northern village:

- (a) \$61 in respect of the eligible individual;
- (b) \$61 in respect of the eligible individual's eligible spouse for the year, where applicable; and
- (c) \$26 in respect of each dependant, during the year, of the eligible individual or the eligible individual's eligible spouse for the year.

History: 1999, c. 83, s. 220; 2002, c. 40, s. 221; 2005, c. 1, s. 266; 2009, c. 5, s. 474; 2011, c. 1, s. 87.

Increase and terms of payment for 2006.

1029.8.114.1. An eligible individual for the taxation year 2006 who makes the application referred to in section 1029.8.114 for that year is deemed to have paid to the Minister in each of September and December 2007, on account of the eligible individual's tax payable under this Part for the taxation year 2006, an amount equal to half of the amount by which the amount described in the second paragraph exceeds the aggregate of the amounts deemed under section 1029.8.114 to have been paid for that year by the eligible individual.

Amount referred to.

The amount to which the first paragraph refers is equal to the amount by which 15% of the eligible individual's family income for the taxation year 2006 is exceeded by the amount obtained by multiplying the total of the following amounts by the number of months in the year during which the eligible individual lives in the territory of a northern village:

- (a) \$60 in respect of the eligible individual;

(b) \$60 in respect of the eligible individual's eligible spouse for the year, if applicable; and

(c) \$25 in respect of each dependant, during the year, of the eligible individual or the eligible individual's eligible spouse for the year.

History: 2009, c. 5, s. 475.

Special rules.

1029.8.115. For the purposes of section 1029.8.114, the following rules apply:

(a) where, for a taxation year, an eligible individual is the eligible spouse of another eligible individual, only one of them may make the application referred to in that section for the year;

(b) where, for a taxation year, the aggregate of the amounts deemed under that section to be paid by an eligible individual during the months specified for the year is equal to or less than \$50, the eligible individual is deemed to have paid that aggregate during the first month specified for the year and no other amount is deemed to be paid under that section by the eligible individual for the year; and

(c) no amount is deemed to be paid under that section by an eligible individual for a taxation year during a month specified for that year if the eligible individual was not resident in Québec at the beginning of that month.

History: 1999, c. 83, s. 220; 2002, c. 40, s. 222.

Special rules applicable to increase in tax credit for 2006.

1029.8.115.1. For the purposes of section 1029.8.114.1, the following rules apply:

(a) if the aggregate of the amounts deemed under that section to have been paid by an eligible individual is equal to or less than \$50, the eligible individual is deemed to have paid that aggregate in September 2007 and no other amount is deemed to be paid under that section by the eligible individual for the taxation year 2006;

(b) if paragraph *b* of section 1029.8.115 applies to an eligible individual for the taxation year 2006, the amount deemed to have been paid in the month of September is to be reduced and the amount deemed to have been paid in the month of December is to be increased by an amount equal to half of the aggregate of the amounts deemed to have been paid under section 1029.8.114 by the eligible individual for the year; and

(c) no amount is deemed under that section to have been paid by an eligible individual for the taxation year 2006 in either September or December 2007 if the eligible individual was not resident in Québec at the beginning of August 2007

with respect to the month of September and at the beginning of December 2007 with respect to the month of December.

History: 2009, c. 5, s. 476.

Death of an eligible individual.

1029.8.116. Where, before the beginning of a month specified for a taxation year, an eligible individual dies, the eligible individual shall not be deemed to have paid to the Minister, during that month, an amount under section 1029.8.114 for the year.

Eligible spouse of a deceased eligible individual.

However, the amount that, but for the first paragraph, would be deemed to have been paid to the Minister by a deceased eligible individual during a month specified for a taxation year is deemed, subject to paragraph *c* of section 1029.8.115, to have been paid to the Minister by the eligible individual's eligible spouse for the year, during the month specified, on account of the eligible individual's tax payable under this Part for the year, if the eligible individual's eligible spouse for the year did not die before the beginning of that month and provided the eligible spouse makes an application therefor in writing to the Minister, on or before the day on which the legal representative of the eligible individual is required to file with the Minister under section 1000 the eligible individual's fiscal return for the year of the eligible individual's death, or would be required to file if tax were payable under this Part by the eligible individual for that year.

History: 1999, c. 83, s. 220; 2002, c. 40, s. 224.

Death of an eligible individual.

1029.8.116.0.1. If an eligible individual dies before 1 September 2007, the eligible individual may not be deemed to have paid to the Minister an amount under section 1029.8.114.1 for the taxation year 2006.

Eligible spouse.

However, the amount that, but for the first paragraph, would be deemed to have been paid to the Minister by a deceased eligible individual before 1 September 2007 is deemed, subject to paragraph *c* of section 1029.8.115.1, to have been paid to the Minister by the eligible individual's eligible spouse for the taxation year 2006, in each of September and December 2007, on account of tax payable under this Part for the taxation year 2006, if the eligible individual's eligible spouse did not die before 1 September 2007 and provided that the eligible spouse makes an application in writing to the Minister on or before the day on which the legal representative of the eligible individual is required to file with the Minister under section 1000 the eligible individual's fiscal return for the year of the eligible individual's death, or would be required to file if tax were payable under this Part by the eligible individual for that year.

Exception.

Despite the second paragraph, the eligible spouse is not required to make the application referred to in the second paragraph when the eligible spouse made the application referred to in the second paragraph of section 1029.8.116 in relation to an amount that, but for the first paragraph of section 1029.8.116, would be deemed to have been paid to the Minister by the deceased eligible individual in a month specified on account of tax payable for the taxation year 2006.

History: 2009, c. 5, s. 477.

DIVISION II.17.1

CREDITS TO INCREASE THE INCENTIVE TO WORK

§1. — *Interpretation*

Definitions:

1029.8.116.1. In this division,

“designated educational institution”;

“designated educational institution” means an educational institution that the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology designates for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses (chapter A-13.3);

“earned income”;

“earned income” of an individual for a month means the aggregate of

(a) the individual's income from an office or employment, computed under Chapters I and II of Title II of Book III, that may reasonably be attributed to that month, other than such an income that is deductible in computing the individual's taxable income under paragraph *e* of section 725; and

(b) the individual's income from any business the individual carries on either alone or as a partner actively engaged in the business, that may reasonably be attributed to that month, other than such an income that is deductible in computing the individual's taxable income under paragraph *e* of section 725;

“eligible individual”;

“eligible individual” for a taxation year means, subject to section 1029.8.116.2, an individual who, at the end of 31 December of the year or, where applicable, on the date of the individual's death, is an emancipated minor, is 18 years of age or over, is the spouse of another individual, or is the father or mother of a child with whom the individual resides, but who is not one of the following persons:

(a) a person in respect of whom another individual receives, for the year, an amount deemed under section 1029.8.61.18

to be an overpayment of the individual's tax payable, except if that person reaches 18 years of age before 1 December of the year;

(b) a person in respect of whom another individual, in computing the other individual's tax payable for the year, deducts an amount under section 752.0.1, as a consequence of the application of paragraph *d*, or under section 776.41.14;

(c) a person in respect of whom another individual includes an amount, as a consequence of the application of paragraph *c* of section 1029.8.114, for the purpose of determining the amount that that other individual is deemed to have paid for the year under that section;

(d) a person who is a dependant of another individual for the year for the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 or subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1; or

(e) a person who, for the year, is a full-time student, unless, at the end of 31 December of the year or, where applicable, on the date of the person's death, the person is the father or mother of a child with whom the person resides;

“eligible spouse”;

“eligible spouse” of an eligible individual for a taxation year means the person who is the eligible individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4, unless, at the end of 31 December of the year or, if the person died in the year, immediately before the person's death,

(a) the person was not resident in Québec; or

(b) the person was confined to a prison or similar institution and had been so confined during the year for one or more periods totalling more than 183 days;

“full-time student”;

“full-time student” for a taxation year means a person who began, in the year, a recognized term of study at a designated educational institution where the person was enrolled in a recognized educational program;

“period of transition to work”;

“period of transition to work” of an individual means

(a) a period that begins on the first day of a particular month that is both subsequent to the month of March 2008 and recognized by the Minister of Employment and Social Solidarity as a month in which the individual ceases to receive a last resort financial assistance benefit under Chapter I or II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) because of earned income from employment as determined for the purposes of that Act, and that ends on the last day of the eleventh month that follows the particular month or, if it is earlier, the last day of the month that precedes the month in which the individual again receives such a benefit;

(b) a period that begins on the first day of a particular month that is both subsequent to the month of March 2009 and recognized by the Minister of Employment and Social

Solidarity as a month in which the individual ceases to receive a financial assistance benefit under Chapter III of Title II of the Individual and Family Assistance Act, as it read before being repealed, because of earned income from employment as determined for the purposes of that Act, and that ends on the last day of the eleventh month that follows the particular month or, if it is earlier, the last day of the month that precedes the month in which the individual begins to receive a benefit referred to in paragraph *a* or *c*; or

(c) a period that begins on the first day of a particular month that is both subsequent to the month of March 2018 and recognized by the Minister of Employment and Social Solidarity as a month in which the individual ceases to receive a financial assistance benefit under Chapter V of Title II of the Individual and Family Assistance Act because of earned income from employment as determined for the purposes of that Act, and that ends on the last day of the eleventh month that follows the particular month or, if it is earlier, the last day of the month that precedes the month in which the individual again receives such a benefit or begins to receive a benefit referred to in paragraph *a*;

“recognized educational program”;

“recognized educational program” means an educational program that provides that each student taking the program spend not less than nine hours per week on courses or work in the program and that is,

(a) if the educational institution is situated in Québec, an educational program recognized by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level established under the Act respecting financial assistance for education expenses; and

(b) if the educational institution is situated outside Québec, an educational program at the college level or at the university level or the equivalent;

“recognized term of study”;

“recognized term of study” means a term of study that is completed and during which a person was in full-time attendance at a designated educational institution;

“total income”;

“total income” of an eligible individual for a taxation year means the aggregate of the income for the year of the eligible individual and the income for the year of the eligible individual's eligible spouse for the year;

“work income”.

“work income” of an individual for a taxation year means the aggregate of

(a) the individual's income for the year from an office or employment computed under Chapters I and II of Title II of Book III, other than such an income that is deductible in computing the individual's taxable income under paragraph *e* of section 725;

(b) the individual's income for the year from a business the individual carries on either alone or as a partner actively engaged in the business, other than such an income that is deductible in computing the individual's taxable income under paragraph *e* of section 725; and

(c) the amount included in computing the individual's income for the year under paragraph *e.6* of section 311 or paragraph *h* of section 312, other than such an amount that is deductible in computing the individual's taxable income under paragraph *e* of section 725.

History: 2005, c. 1, s. 267; 2006, c. 36, s. 205; 2009, c. 5, s. 478; 2009, c. 15, s. 339; 2010, c. 5, s. 163; 2015, c. 24, s. 148; 2017, c. 1, s. 313; 2019, c. 14, s. 394.

Eligible individual.

1029.8.116.2. To qualify as an eligible individual for a taxation year, an individual must be

(a) a Canadian citizen;

(b) an Indian registered as an Indian under the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(c) a permanent resident within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27); or

(d) a person to whom asylum has been granted in Canada by the competent Canadian authority in accordance with the Immigration and Refugee Protection Act.

History: 2005, c. 1, s. 267.

Special rules concerning students with a major functional deficiency .

1029.8.116.2.0.1. For the purposes of this division, if a person has a major functional deficiency within the meaning of the Regulation respecting financial assistance for education expenses (chapter A-13.3, r. 1), and the person, for that reason, pursues studies on a part-time basis during a taxation year, the following rules apply:

(a) the person is deemed to be pursuing studies on a full-time basis during the year; and

(b) the definition of "recognized educational program" in section 1029.8.116.1 is to be read as if "spend not less than nine hours per week on courses or work in the program" were replaced by "receive a minimum of 20 hours of instruction per month".

History: 2015, c. 24, s. 149.

Income from a previous office or employment.

1029.8.116.2.1. For the purposes of paragraph *a* of the definition of "work income" in section 1029.8.116.1, the income of an individual for a taxation year from a previous office or employment is deemed to be equal to zero, if each

of the amounts that make up the income is the value of a benefit received or enjoyed by the individual in the year because of that office or employment.

History: 2006, c. 36, s. 206; 2015, c. 21, s. 486.

Period of transition to work.

1029.8.116.2.2. For the purposes of the definition of "period of transition to work" of an individual in section 1029.8.116.1, the Minister of Employment and Social Solidarity shall comply with the following rules:

(a) despite subparagraph *a* of paragraph 2 of section 55 of the Individual and Family Assistance Act (chapter A-13.1.1), if the individual is a member of a family, that Minister shall take into account only the income from employment earned by the individual and by the individual's spouse within the meaning of section 22 of that Act; and

(b) that Minister shall not consider an individual to have received, for a month, a financial assistance benefit under Title II of the Individual and Family Assistance Act if, for that month, the individual receives only a special benefit under section 48 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1).

History: 2009, c. 15, s. 340; 2019, c. 14, s. 395.

1029.8.116.3. (*Repealed*).

History: 2005, c. 1, s. 267; 2009, c. 15, s. 341.

Individual who is not resident in Canada throughout the year.

1029.8.116.4. For the purposes of the definition of "total income" in section 1029.8.116.1, where an individual was not resident in Canada throughout a taxation year, the individual's income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, where the individual died in the year, throughout the period of the year preceding the time of death.

History: 2005, c. 1, s. 267.

§2. — Credits

Tax credit granting work premium.

1029.8.116.5. An eligible individual for a taxation year who is resident in Québec at the end of 31 December of the year is deemed, subject to the third paragraph, to have paid to the Minister, on the individual's balance-due day for the year, on account of the individual's tax payable for the year, provided that the individual and, if applicable, the individual's eligible spouse for the year file a fiscal return under section 1000 for the year, the amount determined by the formula

$$(A \times B) - (10\% \times C).$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. in the case where the eligible individual does not have an eligible spouse for the year but has a dependant for the year, 30%,

ii. in the case where the eligible individual has an eligible spouse for the year and a dependant for the year, 25%, and

iii. in any other case,

(1) 9% for the taxation year 2016 or 2017,

(2) 9.4% for the taxation year 2018,

(3) 10.5% for the taxation year 2019,

(4) 10.8% for the taxation year 2020,

(5) 11.2% for the taxation year 2021, or

(6) 11.6% for a taxation year subsequent to the year 2021;

(b) B is

i. in the case where the eligible individual does not have an eligible spouse for the year, the amount by which the lesser of the work premium reduction threshold that is applicable for the year in respect of the eligible individual and the eligible individual's work income for the year exceeds \$2,400, and

ii. in the case where the eligible individual has an eligible spouse for the year, the amount by which the lesser of the work premium reduction threshold that is applicable for the year in respect of the eligible individual and the aggregate of the eligible individual's work income for the year and the work income of the eligible individual's eligible spouse for the year exceeds \$3,600; and

(c) C is the amount by which the eligible individual's total income for the year exceeds

i. the work premium reduction threshold that is applicable for the year in respect of an eligible individual who does not have an eligible spouse for the year, and

ii. the work premium reduction threshold that is applicable for the year in respect of an eligible individual who has an eligible spouse for the year.

Computation of payments.

For the purpose of computing the payments that an eligible individual for a taxation year is required to make under section 1025 or 1026, the individual is deemed to have paid

to the Minister, on account of the individual's tax payable for the year under this Part, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the excess amount that corresponds to the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is an advance payment referred to in the second paragraph of section 1029.8.116.9 or 1029.8.116.9.0.1, that the eligible individual, or the eligible individual's eligible spouse for the year, has received, or may reasonably expect to receive, for the year, less the aggregate of all amounts each of which is the portion of that excess amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2005, c. 1, s. 267; 2006, c. 13, s. 193; 2009, c. 15, s. 343; 2017, c. 1, s. 314; 2019, c. 14, s. 396.

Tax credit granting adjusted work premium.

1029.8.116.5.0.1. An individual who, for a taxation year, is an eligible individual to whom the second paragraph applies and is resident in Québec at the end of 31 December of the year is deemed, subject to the fourth paragraph, to have paid to the Minister, on the individual's balance-due day for the year, on account of the individual's tax payable for the year, provided that the individual and, if applicable, the individual's eligible spouse for the year file a fiscal return under section 1000 for the year, the amount determined by the formula

$$(A \times B) - (10\% \times C).$$

Eligible individual.

This paragraph applies, for the year, to an eligible individual if

(a) the eligible individual receives in the year, or has received in any of the five preceding years, because of the individual's physical or mental condition, a social solidarity allowance under Chapter II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), other than a special benefit paid under section 48 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), or a severely limited capacity for employment allowance under Chapter I of Title I of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001), as that Act read before being replaced, other than a special benefit paid under section 50 of the Regulation respecting income support made by Order in

Council 1011-99 (1999, G.O. 2, 2881), as it read before being replaced;

(b) the eligible individual's eligible spouse for the year receives in the year, or has received in any of the five preceding years, because of the spouse's physical or mental condition, an allowance referred to in subparagraph *a*; or

(c) the eligible individual or the eligible individual's eligible spouse for the year is a person in respect of whom subparagraphs *a* to *d* of the first paragraph of section 752.0.14 apply for the year.

Interpretation.

In the formula in the first paragraph,

(a) A is

i. in the case where the eligible individual does not have an eligible spouse for the year but has a dependant for the year, 25%,

ii. in the case where the eligible individual has an eligible spouse for the year and a dependant for the year, 20%, and

iii. in any other case,

(1) 11% for the taxation year 2016 or 2017,

(2) 11.4% for the taxation year 2018,

(3) 12.5% for the taxation year 2019,

(4) 12.8% for the taxation year 2020,

(5) 13.2% for the taxation year 2021, or

(6) 13.6% for a taxation year subsequent to the year 2021;

(b) B is

i. in the case where the eligible individual does not have an eligible spouse for the year, the amount by which the lesser of the reduction threshold for the adjusted work premium, that is applicable for the year in respect of the eligible individual, and the eligible individual's work income for the year exceeds \$1,200, and

ii. in the case where the eligible individual has an eligible spouse for the year, the amount by which the lesser of the reduction threshold for the adjusted work premium, that is applicable for the year in respect of the eligible individual, and the aggregate of the eligible individual's work income for the year and the work income for the year of the eligible individual's eligible spouse for the year exceeds \$1,200; and

(c) C is the amount by which the eligible individual's total income for the year exceeds

i. the reduction threshold for the adjusted work premium, that is applicable for the year in respect of an eligible individual who does not have an eligible spouse for the year, and

ii. the reduction threshold for the adjusted work premium, that is applicable for the year in respect of an eligible individual who has an eligible spouse for the year.

Computation of payments.

For the purpose of computing the payments that an eligible individual for a taxation year is required to make under section 1025 or 1026, the individual is deemed to have paid to the Minister, on account of the individual's tax payable for the year under this Part, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the excess amount that corresponds to the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is an advance payment referred to in the second paragraph of section 1029.8.116.9 or 1029.8.116.9.0.1, that the eligible individual, or the eligible individual's eligible spouse for the year, has received, or may reasonably expect to receive, for the year, less the aggregate of all amounts each of which is the portion of that excess amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2009, c. 15, s. 344; 2017, c. 1, s. 315; 2019, c. 14, s. 397.

Tax credit granting supplement.

1029.8.116.5.0.2. An eligible individual who is resident in Québec at the end of 31 December of a taxation year is deemed, subject to the fourth paragraph, to have paid to the Minister, on the individual's balance-due day for the year, on account of the individual's tax payable for the year, provided that the individual and, if applicable, the individual's eligible spouse for the year file a fiscal return under section 1000 for the year, an amount equal to the product obtained by multiplying \$200 by the total number of months in that year each of which is a month (in this section and section 1029.8.116.9.1 referred to as an "eligible month") for which the individual's earned income is equal to or greater than \$200 and is a month included in a period of transition to work of the individual in respect of which the following conditions are met:

(a) the period of transition to work began in that year or in the preceding taxation year;

(b) the Minister of Employment and Social Solidarity confirms that during the 30-month period that precedes the first month of the individual's period of transition to work that includes the eligible month, the individual received, for at least 24 months, an amount that is

i. a last resort financial assistance benefit paid under Chapter I or II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or under Chapter I of Title I of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001), as that Act read before being replaced, or

ii. a financial assistance benefit paid under Chapter V of Title II of the Individual and Family Assistance Act or Chapter III of that Title II, as it read before being repealed; and

(c) subject to the third paragraph, the Minister of Employment and Social Solidarity confirms that, for the first month of the individual's period of transition to work that includes the eligible month, the individual holds, under subparagraph 1 or 3 of the first paragraph of section 48 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), a valid claim booklet issued by the Minister of Employment and Social Solidarity.

Special rule.

For the purpose of confirming that an individual meets the condition set out in subparagraph *b* of the first paragraph, the Minister of Employment and Social Solidarity shall not consider that the individual received, for a particular month, a financial assistance benefit under Title II of the Individual and Family Assistance Act if

(a) for that month, the individual was a dependent child for the purposes of the Individual and Family Assistance Act or of the Act respecting income support, employment assistance and social solidarity, as that Act read before being replaced; or

(b) for that month, the individual received only a special benefit under section 48 of the Individual and Family Assistance Regulation or under section 50 of the Regulation respecting income support made by Order in Council 1011-99 (1999, G.O. 2, 2881), as it read before being replaced.

Special rule.

Subparagraph *c* of the first paragraph does not apply in respect of an individual who receives a financial assistance benefit under Chapter III of Title II of the Individual and Family Assistance Act, as it read before being repealed, for the month that precedes the first month of the individual's period of transition to work that includes the eligible month.

Computation of payments.

For the purpose of computing the payments that an eligible individual for a taxation year is required to make under section 1025 or 1026, the individual is deemed, unless the individual elects to have section 1029.8.116.9.1 apply for the year, to have paid to the Minister, on account of the individual's tax payable for the year under this Part, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2009, c. 15, s. 344; 2010, c. 5, s. 164; 2019, c. 14, s. 398.

Deceased individual.

1029.8.116.5.0.3. For the purposes of sections 1029.8.116.5 to 1029.8.116.5.0.2, an eligible individual who was resident in Québec immediately before the eligible individual's death is deemed to be resident in Québec at the end of 31 December of the year in which the eligible individual died.

History: 2009, c. 15, s. 344.

Notice.

1029.8.116.5.1. The Minister of Finance publishes annually in the *Gazette officielle du Québec* a notice setting out

(a) the amounts of the work premium reduction thresholds, referred to in subparagraphs *i* and *ii* of subparagraphs *b* and *c* of the second paragraph of section 1029.8.116.5, that are applicable for a taxation year and are determined according to the terms and conditions prescribed by regulation, and that are to be used in determining the amount that an eligible individual is deemed to have paid to the Minister on account of the individual's tax payable for the year under section 1029.8.116.5; and

(b) the amounts of the reduction thresholds for the adjusted work premium, referred to in subparagraphs *i* and *ii* of subparagraphs *b* and *c* of the third paragraph of section 1029.8.116.5.0.1, that are applicable for a taxation year and are determined according to the terms and conditions prescribed by regulation, and that are to be used in determining the amount that an eligible individual is deemed

to have paid to the Minister on account of the individual's tax payable for the year under section 1029.8.116.5.0.1.

Effective date.

The notice described in the first paragraph becomes effective from 1 January of the year for which the amounts of the work premium reduction thresholds and of the reduction thresholds for the adjusted work premium are determined and may be subject to a review having retroactive effect to that date.

History: 2006, c. 13, s. 194; 2009, c. 15, s. 345; Notice, (2019) 49 G.O. 1 (French), 772; Notice, (2020) 51 G.O. 1 (French), 924.

Individual confined to prison.

1029.8.116.5.2. An eligible individual may not be deemed to have paid an amount to the Minister under any of sections 1029.8.116.5 to 1029.8.116.5.0.2 for a taxation year if, at the end of 31 December of the year or, if the eligible individual died in the year, immediately before the eligible individual's death, the eligible individual was confined to a prison or similar institution and had been so confined during the year for one or more periods totalling more than 183 days.

History: 2009, c. 15, s. 346; 2017, c. 1, s. 316.

1029.8.116.6. (*Repealed*).

History: 2005, c. 1, s. 267; 2006, c. 13, s. 195.

1029.8.116.7. (*Repealed*).

History: 2005, c. 1, s. 267; 2006, c. 13, s. 195.

Dependant of eligible individual.

1029.8.116.8. For the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 or subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1, an eligible individual for a taxation year has a dependant for the year if that person is, during the year, a child of the eligible individual or of the eligible individual's eligible spouse for the year and

(a) the eligible individual or the eligible individual's eligible spouse for the year receives in respect of that person, for the last month of the year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable;

(b) that person is, at the end of the year, under 18 years of age, ordinarily resides with the eligible individual and is neither the father or the mother of a child with whom the person resides, nor an emancipated minor;

(c) the eligible individual or the eligible individual's eligible spouse for the year deducts an amount in computing the tax payable for the year in respect of that person under section 752.0.1, as a consequence of the application of paragraph *d* of that section, or could have deducted such an amount but for the person's income for the year; or

(d) that person is an eligible student for the year within the meaning of section 776.41.12.

Special rule in cases of shared custody.

For the purposes of subparagraph *b* of the first paragraph, where custody of a person is shared under an order or judgment of a competent tribunal or, if there is no such order or judgment, under a written agreement, that person is considered to ordinarily reside with the eligible individual at the end of a taxation year only if, pursuant to the order, judgment or written agreement, as the case may be, the eligible individual or the eligible individual's eligible spouse for the year must exercise at least 40% of custody time in respect of that person for the last month of the year.

History: 2005, c. 1, s. 267; 2007, c. 12, s. 211; 2009, c. 5, s. 479; 2009, c. 15, s. 347; 2017, c. 1, s. 317; 2019, c. 14, s. 399.

Dependant confined to prison.

1029.8.116.8.1. For the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 and subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1, an eligible individual for a taxation year may not consider a person as being a dependant for the year if, at the end of 31 December of the year or, if the person died in the year, immediately before the person's death, that person was confined to a prison or similar institution and had been so confined during the year for one or more periods totalling more than 183 days.

History: 2009, c. 15, s. 348; 2017, c. 1, s. 318; 2019, c. 14, s. 400.

Person deemed confined to prison.

1029.8.116.8.2. For the purposes of the definition of "eligible spouse" in section 1029.8.116.1 and sections 1029.8.116.5.2 and 1029.8.116.8.1, a person who has been allowed, in a taxation year, to be temporarily absent from a prison or a similar institution to which the person has been confined is deemed to be confined to that prison or similar institution during each day of the year during which the person has been so allowed to be temporarily absent.

History: 2009, c. 15, s. 348.

§3. — *Advance payments and exceptional rules*

Advance payments of tax credits granting a work premium.

1029.8.116.9. If, on or before 15 October of a taxation year, an individual applies to the Minister, in the prescribed form containing prescribed information, the Minister may pay in advance, according to the terms and conditions provided for in the second paragraph, an amount (in this subdivision referred to as the "amount of the advance relating to the work premium") equal to the product obtained by multiplying the percentage specified in the third paragraph by the amount the individual considers to be the amount that the individual will be deemed to have paid to the Minister, under the first paragraph of section 1029.8.116.5 or

1029.8.116.5.0.1, on account of the individual's tax payable for the year, if

(a) the individual is resident in Québec at the time of the application;

(b) the individual is not a person in respect of whom another individual is entitled, for the year, to an amount deemed under section 1029.8.61.18 to be an overpayment of the other individual's tax payable, unless the individual is 18 years of age or over on the first day of the month of the application;

(c) at the time of the application, the individual is described in any of paragraphs *a* to *d* of section 1029.8.116.2;

(d) at the time of the application, the individual performs the duties of an office or employment, or carries on a business, alone or as a partner actively engaged in the business;

(e) the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister on account of the individual's tax payable for the year, under the first paragraph of either of sections 1029.8.116.5 and 1029.8.116.5.0.1, is greater than

i. if the individual has a dependant who meets the conditions set out in section 1029.8.116.8 for the purposes of subparagraph *a* of the second paragraph of section 1029.8.116.5 or subparagraph *a* of the third paragraph of section 1029.8.116.5.0.1, \$500, and

ii. in any other case, \$300; and

(f) the individual has agreed that the advance payments be made by direct deposit in a bank account held at a financial institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Terms and conditions of payment.

The terms and conditions of payment of the amount of the advance relating to the work premium to which the first paragraph refers are the following:

(a) if the Minister receives from the individual the application referred to in the first paragraph not later than 1 December of the preceding year, the amount of the advance relating to the work premium is payable in 12 equal advance payments made on or before the fifteenth day of each month of the year; and

(b) if the Minister receives from the individual the application referred to in the first paragraph after 1 December of the preceding year and not later than 15 October of the year, the amount of the advance relating to the work premium is payable in equal advance payments made on or before the fifteenth day of each month of the year

that is subsequent to the particular month in which the application is received, if the application is received on the first day of that month, or, in any other case, that is subsequent to the month that follows the particular month;

(c) *(subparagraph repealed)*;

(d) *(subparagraph repealed)*.

Percentage applicable.

The percentage to which the first paragraph refers is 50% if subparagraph *i* of subparagraph *e* of that paragraph applies, and 75% in any other case.

History: 2005, c. 1, s. 267; 2009, c. 15, s. 349; 2011, c. 1, s. 88; 2011, c. 6, s. 201; 2011, c. 34, s. 102; 2012, c. 8, s. 234; 2017, c. 1, s. 319; 2019, c. 14, s. 401.

Advance payments of tax credits granting work premiums to recipients of last resort financial assistance.

1029.8.116.9.0.1. If, in a taxation year, an individual receives a financial assistance benefit paid under any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or Chapter III of that Title II, as it read before being repealed, if, on or before 15 October of that year, the individual applies to the Minister of Employment and Social Solidarity, in the prescribed form containing prescribed information, and if that Minister notifies the Minister of Revenue, the latter Minister may pay in advance, according to the terms and conditions provided for in the second paragraph, the amount determined in accordance with the third paragraph in respect of a relevant month of the year (in this subdivision referred to as the “increased amount of the advance relating to the work premium”) in respect of the amount the individual considers to be the amount that the individual will be deemed to have paid to the Minister, under the first paragraph of section 1029.8.116.5 or 1029.8.116.5.0.1, on account of the individual's tax payable for the year, if

(a) the individual is resident in Québec at the time of the application;

(b) the individual is not a person in respect of whom another individual is entitled, for the year, to an amount deemed under section 1029.8.61.18 to be an overpayment of the other individual's tax payable, unless the individual is 18 years of age or over on the first day of the month of the application;

(c) at the time of the application, the individual is described in any of paragraphs *a* to *d* of section 1029.8.116.2;

(d) at the time of the application, the individual performs the duties of an office or employment, or carries on a business, alone or as a partner actively engaged in the business; and

(e) the individual has agreed that the advance payments be made by direct deposit in a bank account held at a financial

institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/ Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Terms and conditions of payment.

The increased amount of the advance relating to the work premium in respect of a relevant month that is the month of the application or one of the months for which new information concerning the work income earned by the individual and, if applicable, by the individual's spouse is transmitted by the Minister of Employment and Social Solidarity is payable on or before the 15th day of the month of the year that follows the month in which the Minister of Revenue receives the application or the new information.

Determination of increased amount.

The increased amount of the advance relating to the work premium in respect of a relevant month of the taxation year is determined by the formula

$$(90\% \times A) - B.$$

Interpretation.

In the formula in the third paragraph,

(a) A is the amount that the individual would be deemed to have paid to the Minister, under the first paragraph of section 1029.8.116.5 or 1029.8.116.5.0.1, on account of the individual's tax payable for the year, if the total of the individual's work income for the year and, where applicable, that of the individual's spouse at the time of the application or at the beginning of the relevant month, as the case may be, were the aggregate of the work income they earned, for the portion of that year that ends at the end of the month that precedes the relevant month, as those work incomes were determined by the Minister of Employment and Social Solidarity for the purposes of the Individual and Family Assistance Act; and

(b) B is the aggregate of the payments that the individual received in the year, under this section and section 1029.8.116.9, before the month in which the increased amount of the advance relating to the work premium determined in respect of the relevant month is paid.

Relevant month.

For the purposes of this section, a relevant month of a taxation year is a month the first day of which is subsequent to the period, beginning at the beginning of that year, at the end of which the aggregate of the work incomes earned by the individual and, where applicable, by the individual's spouse at that time, as those work incomes were determined by the Minister of Employment and Social Solidarity for the purposes of the Individual and Family Assistance Act, exceeds

(a) \$2,400, where the individual considers that the individual will be deemed to have paid an amount to the Minister under the first paragraph of section 1029.8.116.5 and the individual does not have a spouse at that time;

(b) \$3,600, where the individual considers that the individual will be deemed to have paid an amount to the Minister under the first paragraph of section 1029.8.116.5 and the individual has a spouse at that time; or

(c) \$1,200, where the individual considers that the individual will be deemed to have paid an amount to the Minister under the first paragraph of section 1029.8.116.5.0.1.

History: 2017, c. 1, s. 320; 2019, c. 14, s. 402.

Change in situation.

1029.8.116.9.0.2. The individual shall notify the Minister with dispatch of any event which may affect the amount of the advance relating to the work premium or the increased amount of the advance relating to the work premium, as the case may be.

Application made by only one of the spouses.

Where, at the time of the application referred to in the first paragraph of section 1029.8.116.9 or 1029.8.116.9.0.1, an individual has a spouse, only one of them may make an application under either of those sections for the year.

History: 2017, c. 1, s. 320.

Cessation of advance payment relating to a work premium.

1029.8.116.9.0.3. The Minister shall cease to pay the amount of the advance relating to the work premium to an individual from the first month in which an increased amount of the advance relating to the work premium is paid to the individual or would be paid to the individual if that amount were greater than zero.

History: 2017, c. 1, s. 320.

Advance payment coordination — regular and increased payments.

1029.8.116.9.0.4. Where an individual who has made an application referred to in the first paragraph of section 1029.8.116.9.0.1 for a taxation year either makes another, for the year, under the first paragraph of section 1029.8.116.9 or notifies the Minister that the individual intends to resume receiving payments under that latter section, and where the total of the payments that the individual received in that year under section 1029.8.116.9 or 1029.8.116.9.0.1 is less than the amount of the advance relating to the work premium, determined in respect of the individual for the year, the payments of the amount of that advance may be made or resume being made, according to the terms and conditions provided for in subparagraph *b* of the second paragraph of section 1029.8.116.9, subject to their being computed by

subtracting the total of the payments received from the amount of that advance.

Cessation of increased advance payment.

The Minister may not pay an increased amount of the advance relating to the work premium to an individual in a particular month in which a payment of the amount of the advance relating to the work premium in respect of which the first paragraph applies is made to the individual.

History: 2017, c. 1, s. 320.

Advance payments of tax credit granting a supplement.

1029.8.116.9.1. If an individual applies to the Minister of Employment and Social Solidarity for a taxation year, in prescribed form containing prescribed information, and if that Minister, after being satisfied that the conditions set out in subparagraphs *b* and *c* of the first paragraph of section 1029.8.116.5.0.2 are met in respect of any of the individual's periods of transition to work that include an eligible month, notifies the Minister of Revenue, the latter Minister may pay in advance, according to the terms and conditions provided for in the second paragraph, an amount (in this subdivision referred to as the "amount of the advance relating to the supplement") equal to the amount that the individual considers to be the amount that the individual will be deemed to have paid to the Minister, under that first paragraph, on account of the individual's tax payable for a taxation year for which the application is made, if

(a) the individual is resident in Québec at the time of the application;

(b) the individual is not a person in respect of whom another individual is entitled, for the year, to an amount deemed under section 1029.8.61.18 to be an overpayment of the other individual's tax payable, unless the individual is 18 years of age or over on the first day of the month of the application;

(c) at the time of the application, the individual is described in any of paragraphs *a* to *d* of section 1029.8.116.2;

(d) at the time of the application, the individual is performing the duties of an office or employment, or is carrying on a business, alone or as a partner actively engaged in the business; and

(e) the individual has agreed that the advance payments be made by direct deposit in a bank account held at a financial institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Terms and conditions of payment.

The terms and conditions of payment of the amount of the advance relating to the supplement to which the first paragraph refers are as follows:

(a) for any eligible month that precedes the month in which the individual filed the application, the Minister shall pay to the individual, on or before the 15th day of the month that follows the month in which the application was filed, an amount equal to the product obtained by multiplying \$200 by the number of those eligible months; and

(b) for each of the other eligible months, the Minister shall pay to the individual an amount of \$200 on or before the 15th day of the following month.

Period of transition to work.

The Minister of Employment and Social Solidarity shall notify the Minister on becoming aware that the individual's period of transition to work has ended because the individual is receiving a last resort financial assistance benefit under Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or a financial assistance benefit under Chapter V of that Title II.

Change in situation.

In addition, the individual shall notify the Minister with dispatch of any event that may affect the amount of the advance relating to the supplement.

History: 2009, c. 15, s. 350; 2011, c. 6, s. 202; 2011, c. 34, s. 103; 2019, c. 14, s. 403.

Additional documents or information.

1029.8.116.9.1.1. The Minister may require from any individual who makes an application for advance payments referred to in the first paragraph of any of sections 1029.8.116.9, 1029.8.116.9.0.1 and 1029.8.116.9.1 a document or information other than those provided for in that paragraph if the Minister considers the document or information necessary to evaluate the application.

History: 2011, c. 6, s. 203; 2017, c. 1, s. 321.

Refusal of an application.

1029.8.116.9.1.2. The Minister is not required to grant, for a particular taxation year, an application for advance payments referred to in the first paragraph of any of sections 1029.8.116.9, 1029.8.116.9.0.1 and 1029.8.116.9.1 if

(a) the individual, or the individual's spouse at the time of the application, received for a preceding taxation year a payment of the amount of the advance relating to the work premium, of an increased amount of the advance relating to the work premium or of the amount of the advance relating to the supplement and, at the time the application is

processed, has not filed a fiscal return for the preceding year; and

(b) the application is processed after the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 203; 2017, c. 1, s. 322.

Cessation or suspension of advance payment.

1029.8.116.9.1.3. The Minister may, at a particular time, cease to pay, or suspend the payment of, the amount of the advance relating to the work premium, an increased amount of the advance relating to the work premium or the amount of the advance relating to the supplement to an individual for a particular taxation year if

(a) the individual, or the individual's spouse at the time of the application for advance payments, for the particular year, that is referred to in the first paragraph of section 1029.8.116.9, 1029.8.116.9.0.1 or 1029.8.116.9.1, as the case may be, received for a preceding taxation year a payment of any of those amounts and has not, as of the particular time, filed a fiscal return for the preceding year; and

(b) the particular time is subsequent to the filing-due date of the person referred to in paragraph *a* for the preceding year.

History: 2011, c. 6, s. 203; 2017, c. 1, s. 323.

Suspension, reduction or cessation of advance payment.

1029.8.116.9.1.4. The Minister may suspend the payment of, reduce or cease to pay the amount of the advance relating to the work premium, an increased amount of the advance relating to the work premium or the amount of the advance relating to the supplement if documents or information brought to the Minister's attention so warrant.

History: 2011, c. 6, s. 203; 2017, c. 1, s. 324.

Restriction.

1029.8.116.9.2. No individual may be deemed to have paid an amount to the Minister for a taxation year under section 1029.8.116.5 if the individual or the individual's eligible spouse for the year is deemed to have paid an amount to the Minister for the year under section 1029.8.116.5.0.1.

History: 2009, c. 15, s. 350.

Individual exempt from tax.

1029.8.116.10. An eligible individual shall not be deemed to have paid an amount to the Minister under any of sections 1029.8.116.5 to 1029.8.116.5.0.2, for a taxation year, if the eligible individual or the eligible individual's eligible spouse for the year is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to

d and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2005, c. 1, s. 267; 2007, c. 12, s. 212; 2009, c. 15, s. 351; 2010, c. 31, s. 175.

Work premium applied for by both spouses.

1029.8.116.11. Where an eligible individual is the eligible spouse for a taxation year of another eligible individual, the total of the amounts that each of those individuals is deemed to have paid to the Minister for the year under section 1029.8.116.5 or 1029.8.116.5.0.1 may not exceed the amount that only one of those individuals would, but for this section, be deemed to have paid to the Minister for the year under that section.

Determination by the Minister.

Where those individuals cannot agree as to what portion of the amount each would, but for this section, be deemed to have paid to the Minister, the Minister may determine the portion of that amount for the year.

History: 2005, c. 1, s. 267; 2009, c. 15, s. 352.

DIVISION II.17.2 SOLIDARITY CREDIT

§1. — *Interpretation and general*

Definitions:

1029.8.116.12. In this division,

“*base year*”;

“base year” relating to a particular payment period means the taxation year that ended on 31 December of the calendar year that precedes the beginning of that period;

“*cohabiting spouse*”;

“cohabiting spouse” of an individual at any time means the person who at that time is the individual's spouse and is not living separate and apart from the individual;

“*eligible dwelling*”;

“eligible dwelling” of an eligible individual means a dwelling situated in Québec in which the individual ordinarily lives and that is the individual's principal place of residence, except

(a) a dwelling in low-rental housing within the meaning of article 1984 of the Civil Code;

(b) a dwelling situated in a facility maintained by a public institution or a private institution which is party to an agreement under the Act respecting health services and social services (chapter S-4.2) that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre referred to in that Act;

(c) a dwelling situated in a facility maintained by a hospital centre or a reception centre that is a public institution for the purposes of the Act respecting health services and social

services for Cree Native persons (chapter S-5) or that entered into a contract or an agreement in accordance with section 176 or 177 of that Act;

(d) a dwelling situated in an immovable or residential facility where are offered the services of an intermediate resource or a family-type resource within the meaning of the Act respecting health services and social services or those of a foster family within the meaning of the Act respecting health services and social services for Cree Native persons;

(e) a dwelling for which an amount is paid in discharge of rent under the National Housing Act (Revised Statutes of Canada, 1985, chapter N-11);

(f) a room situated in the principal residence of the lessor, if less than three rooms are rented or offered for rent and if the room has neither a separate entrance from the outside nor sanitary facilities separate from those used by the lessor; and

(g) a room situated in a hotel establishment or rooming house, that is leased or subleased for a period of less than 60 consecutive days;

“eligible individual”;

“eligible individual” in respect of a particular payment period means an individual who, at the end of the base year relating to that period,

(a) is either 18 years of age or over, or an emancipated minor, the spouse of another individual, or the father or mother of a child with whom the individual resides;

(b) is resident in Québec or, if the individual is the cohabiting spouse of a person who is deemed to be resident in Québec throughout that base year, other than a person who is exempt from tax for that year under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002), was resident in Québec in any preceding taxation year;

(c) is, or whose cohabiting spouse is,

i. a Canadian citizen,

ii. a permanent resident within the meaning of subsection 1 of section 2 of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27),

iii. a temporary resident or a holder of a temporary resident permit, within the meaning of the Immigration and Refugee Protection Act, who was resident in Canada during the 18-month period preceding that time, or

iv. a protected person within the meaning of the Immigration and Refugee Protection Act; and

(d) is not an excluded individual;

“excluded individual”;

“excluded individual” at the end of a base year means

(a) a person in respect of whom another individual has received, for the last month of the base year, an amount

deemed under section 1029.8.61.18 to be an overpayment of the other individual’s tax payable, except where the person attained 18 years of age in that month;

(b) a person confined to a prison or a similar institution at the end of the base year and who was so confined throughout one or more periods, totalling more than 183 days, included in that year; or

(c) a person who is exempt from tax for the base year under section 982 or 983 or any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act, or the cohabiting spouse of such a person at the end of that year;

“family income”;

“family income” of an individual for the base year relating to a particular payment period means, subject to the third paragraph of section 1029.8.116.15, the aggregate of the income of the individual for that base year and the income, for that year, of the individual’s cohabiting spouse at the end of that year;

“health services and social services network facility”;

“health services and social services network facility” means any of the following immovables:

(a) a facility maintained by a public or private institution referred to in the Act respecting health services and social services that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre referred to in that Act;

(b) a facility maintained by a hospital centre or a reception centre that is a public or private institution for the purposes of the Act respecting health services and social services for Cree Native persons; and

(c) an immovable or residential facility where are offered the services of an intermediate resource or a family-type resource within the meaning of the Act respecting health services and social services or those of a foster family within the meaning of the Act respecting health services and social services for Cree Native persons;

“northern village”;

“northern village” means a municipality established in accordance with the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);

“payment month”;

“payment month” of a particular payment period means any of the months included in that period that are determined, in respect of an individual, in accordance with the second paragraph of section 1029.8.116.26;

“payment period”.

“payment period” means the period that begins on 1 July of a particular calendar year and ends on 30 June of the following calendar year.

Transitional rules.

For the purpose of applying this division to a particular month of the taxation year 2016 that precedes 1 July, the first paragraph, as it read in its application before that date, is to be read as follows:

(a) by replacing the definition of “base year” by the following definition:

““base year” relating to a particular month means the taxation year 2015;”;

(b) by replacing the portion of the definition of “eligible individual” before paragraph *a* by the following:

““eligible individual” in respect of a particular month means an individual who, at the end of the base year relating to that month;” and

(c) by replacing “at the beginning of the particular month” in the definition of “family income” by “at the end of that year”.

Family income for base years — first six months of 2016.

However, as regards an individual’s family income for the base year relating to any of the first six months of the year 2016, the following rules apply:

(a) for the purpose of determining that family income, the individual’s income and, if applicable, that of the individual’s cohabiting spouse at the end of the base year correspond to their respective incomes for the taxation year 2014;

(b) documents certifying the incomes that are filed for the taxation year 2014 are deemed to have been filed for the base year; and

(c) the first and second paragraphs of section 1029.8.116.15 and section 1029.8.116.19 are to be read as if any reference to the base year in those paragraphs and that section were a reference to the taxation year 2014.

History: 2011, c. 1, s. 89; 2010, c. 31, s. 175; 2011, c. 34, s. 104; 2012, c. 8, s. 235; 2015, c. 36, s. 128; 2017, c. 1, s. 325; 2019, c. 14, s. 404.

Rules relating to spouses.

1029.8.116.13. For the purposes of the definition of “cohabiting spouse” in the first paragraph of section 1029.8.116.12, the following rules must be taken into consideration:

(a) a person shall not be considered to be living separate and apart from an individual at any time unless the person was living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time;

(b) where an individual would, but for this paragraph, have more than one cohabiting spouse at any time, the individual is deemed, at that time, to have only one cohabiting spouse and to be the cohabiting spouse of that person only; and

(c) where a person would, but for this paragraph, be the cohabiting spouse of more than one individual at any time, the Minister may designate which of the individuals is deemed to have that person as sole cohabiting spouse at that time and that person is deemed to be the cohabiting spouse at that time solely of the individual so designated.

History: 2011, c. 1, s. 89; 2012, c. 8, s. 236.

Individual confined to a prison.

1029.8.116.14. For the purposes of this division, a person who has been allowed, on a particular day, to be temporarily absent from a prison or similar institution to which the person has been confined is deemed to be confined to that prison or similar institution throughout that day.

History: 2011, c. 1, s. 89.

Rules applicable to family income.

1029.8.116.15. For the purposes of the definition of “family income” in the first paragraph of section 1029.8.116.12, the following rules apply:

(a) (*subparagraph repealed*);

(b) if an individual was not resident in Canada throughout a particular base year, the individual’s income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year; and

(c) if an individual who was not resident in Québec on 31 December of a particular base year was resident in Canada throughout that year, the individual’s income for the year is deemed to be equal to the individual’s income for that year for the purposes of Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(d) (*subparagraph repealed*).

Exception.

If, in respect of a child, an individual receives for a month included in a particular payment period, or for a particular month preceding 1 July 2016, an amount deemed under section 1029.8.61.18 to be an overpayment of the individual’s tax payable and the individual was not resident in Québec on 31 December of the base year relating to that payment period or to the particular month, as the case may be, for the purpose of determining for that base year the family income of the individual, the individual’s income for

the base year is, despite the first paragraph, the individual's income for that year for the purposes of Division II.11.2.

Family income of last-resort financial assistance recipients.

However, an individual's family income for the base year relating to a particular payment period, or to a particular month preceding 1 July 2016, is deemed to be equal to zero if, for the last month of that base year, the individual or the individual's cohabiting spouse at the end of that year is a recipient under a financial assistance program provided for in any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or Chapter III of Title II of that Act, as it read before being repealed.

History: 2011, c. 1, s. 89; 2012, c. 8, s. 237; 2015, c. 36, s. 129; 2019, c. 14, s. 405.

§2. — *Credit*

Solidarity tax credit.

1029.8.116.16. The amount that, subject to section 1029.8.116.17.1, is determined by the following formula is deemed, for a particular payment period, to be an overpayment of tax payable under this Part by an eligible individual in respect of that period, if the eligible individual makes an application to that effect in accordance with section 1029.8.116.18 and if the individual and, if applicable, the individual's cohabiting spouse at the end of the base year relating to that period file the document specified in section 1029.8.116.19 for that base year:

$$A + B + C - D.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of

- i. \$292,
- ii. \$292 if, at the end of the base year relating to the particular payment period, the eligible individual has a cohabiting spouse resident in Québec who ordinarily lives with the individual and, subject to the fourth paragraph, is not confined to a prison or a similar institution, and
- iii. \$139 if, throughout that base year, the eligible individual ordinarily lives in a self-contained domestic establishment in which no other person 18 years of age or over ordinarily lives;

(b) B is an amount equal to zero, unless, at the end of the base year relating to the particular payment period, the eligible individual, or the individual's cohabiting spouse with whom the individual ordinarily lives, owns, leases or subleases the individual's eligible dwelling and the

information described in section 1029.8.116.19.1 has been provided, in which case B is the aggregate of

i. \$567 if, at the end of that base year, the eligible individual owns, leases or subleases the eligible dwelling and, at that time, neither the individual's cohabiting spouse, nor another eligible individual who owns, leases or subleases the dwelling with the individual, ordinarily lives in the dwelling,

ii. if, at the end of that base year, the eligible individual is not referred to in subparagraph i,

(1) \$687 where, at the end of that base year, the eligible individual lives in the eligible dwelling with the individual's cohabiting spouse and, at that time, no other eligible individual who owns, leases or subleases the dwelling ordinarily lives in the dwelling, or

(2) in any other case, the particular amount that is the quotient obtained by dividing \$687 by the number of persons who, at the end of that base year, own, lease or sublease the eligible dwelling and ordinarily live in the dwelling, or twice the particular amount where, at that time, the eligible individual and the individual's cohabiting spouse are such persons,

iii. the product obtained by multiplying \$121 by the number of persons each of whom is a child, other than a child referred to in section 1029.8.61.18.2, in respect of whom the eligible individual, or the person who at the end of that base year is the individual's cohabiting spouse with whom the individual ordinarily lives, has received, for the last month of that year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable, and

iv. 50% of the product obtained by multiplying \$121 by the number of persons each of whom is a child referred to in section 1029.8.61.18.2 in respect of whom the eligible individual, or the person who at the end of that base year is the individual's cohabiting spouse with whom the individual ordinarily lives, has received, for the last month of that year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable;

(c) C is an amount equal to zero, unless, at the end of the base year relating to the particular payment period, the eligible individual ordinarily lives in the territory of a northern village in which the individual's principal place of residence is situated, in which case C is the aggregate of

- i. \$1,719,
- ii. \$1,719 if, at the end of that base year, the eligible individual has a cohabiting spouse:

(1) who ordinarily lives in that territory with the eligible individual,

(2) whose principal place of residence is situated in that territory, and

(3) who, subject to the fourth paragraph, is not confined to a prison or a similar institution,

iii. the product obtained by multiplying \$372 by the number of persons each of whom is a child in respect of whom the following conditions are met at the end of that base year:

(1) the child is not referred to in section 1029.8.61.18.2,

(2) the child ordinarily lives in that territory in which the child's principal place of residence is situated, and

(3) the eligible individual or the individual's cohabiting spouse has received in relation to that child, for the last month of that year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable, and

iv. 50% of the product obtained by multiplying \$372 by the number of persons each of whom is a child in respect of whom the following conditions are met at the end of that base year:

(1) the child is referred to in section 1029.8.61.18.2,

(2) the child ordinarily lives in that territory in which the child's principal place of residence is situated, and

(3) the eligible individual or the individual's cohabiting spouse has received in relation to that child, for the last month of that year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable; and

(d) D is the amount determined by the formula

$$E \times (F - G).$$

Interpretation.

In the formula in subparagraph *d* of the second paragraph,

(a) E is

i. 3%, if B and C in the formula in the first paragraph have a value equal to zero in respect of the eligible individual for the particular payment period, or

ii. 6%, in any other case;

(b) F is the eligible individual's family income for the base year relating to the particular payment period; and

(c) G is an amount of \$34,800.

Person deemed not confined.

For the purposes of this section, a person is deemed not to be confined to a prison or similar institution at the end of a base year if

(a) the total number of days in the year during which the person was confined to the prison or similar institution is less than or equal to 183; and

(b) at that time, the person could reasonably be expected not to be confined to the prison or similar institution throughout the following taxation year.

Child born or adopted in the last month of a taxation year.

Where a child is born or adopted in the last month of the base year relating to a particular payment period, or to a particular month preceding 1 July 2016, the eligible individual in respect of that period or that month, or the individual's cohabiting spouse at the end of that base year, as the case may be, is deemed, for the purposes of subparagraphs *b* and *c* of the second paragraph, to have received, in relation to the child, for the last month of that base year, an amount deemed under section 1029.8.61.18 to be an overpayment of tax payable, if it is reasonable to consider that that person will receive such an amount in relation to the child for the first month following that year.

History: 2011, c. 1, s. 89; 2011, c. 34, s. 105; 2015, c. 21, s. 487; 2015, c. 36, s. 130; 2017, c. 1, s. 326; 2019, c. 14, s. 406.

Rule of application.

1029.8.116.17. If section 1029.8.116.16, as it read in its application before 1 January 2012, applies in respect of a particular month included in the taxation year 2011, it is to be read

(a) as if "1/12" in the formula in the first paragraph were replaced by "1/6";

(b) as if "\$265" and "\$128" wherever they appear in subparagraph *a* of the second paragraph were replaced by "\$220" and "\$125", respectively;

(c) as if "\$515", "\$625" and "\$110" wherever they appear in subparagraph *b* of the second paragraph were replaced by "\$75", "\$100" and "\$25", respectively; and

(d) as if "\$790" and "\$339" wherever they appear in subparagraph *c* of the second paragraph were replaced by "\$775" and "\$332", respectively.

Transitional measures for the first six months of 2016

For the purpose of applying this division to a particular month of the taxation year 2016 that precedes 1 July, section 1029.8.116.16, as it read in its application before that date, is to be read as if

(a) “described in the fifth paragraph” and “the individual’s cohabiting spouse at the beginning of the particular month” in the portion of the first paragraph before the formula were replaced by “described in the seventh paragraph” and “the individual’s cohabiting spouse at the end of the base year relating to the particular month”, respectively;

(b) “at the beginning of the particular month” were replaced by “at the end of the base year relating to the particular month” in the following provisions of the second paragraph:

- i. subparagraph ii of subparagraph *a*,
- ii. the portion of subparagraph *b* before subparagraph i,
- iii. subparagraphs i to iii of subparagraph *b*,
- iv. the portion of subparagraph *c* before subparagraph *i*, and
- v. the portion of each of subparagraphs ii, iii and iv of subparagraph *c* before subparagraph 1;

(c) “at the beginning of the particular month” and “no other eligible individual” in subparagraph iii of subparagraph *a* of the second paragraph were replaced by “throughout the base year relating to the particular month” and “no other person 18 years of age or over”, respectively;

(d) “and the information described in section 1029.8.116.19.1 has been provided” were inserted after “the individual’s eligible dwelling” in the portion of subparagraph *b* of the second paragraph before subparagraph i;

(e) “but owns, leases or subleases the eligible dwelling” in subparagraph iii of subparagraph *b* of the second paragraph were replaced by “but the individual or the individual’s cohabiting spouse owns, leases or subleases the eligible dwelling”;

(f) “at that time” and “receives, for the particular month” in each of subparagraphs iv and v of subparagraph *b* of the second paragraph were replaced by “at the end of the base year relating to the particular month” and “has received, for the last month of that year”, respectively;

(g) “receives in relation to that child, for the particular month” in subparagraph 3 of each of subparagraphs iii and iv of subparagraph *c* of the second paragraph were replaced by “has received in relation to that child, for the last month of that year”; and

(h) subparagraph *a* of the fourth paragraph were replaced by the following subparagraph:

“(a) 2, if, at the end of the base year relating to the particular month, the eligible individual and the individual’s cohabiting spouse with whom the individual ordinarily lives in the

eligible dwelling are such owners, lessees or sublessees; and”.

History: 2011, c. 1, s. 89; 2015, c. 21, s. 488; 2015, c. 36, s. 131.

Minimum amount.

1029.8.116.17.1. The amount determined under section 1029.8.116.16 for a particular payment period in respect of an eligible individual may not be less than the amount that would be determined in respect of the eligible individual for that period if, in the formula in the first paragraph of that section, the amounts for B and C were each equal to zero.

History: 2011, c. 34, s. 106; 2015, c. 36, s. 132.

Filing of application.

1029.8.116.18. The application referred to in the first paragraph of section 1029.8.116.16 must be filed with the Minister no later than 31 December of the fourth year following the base year relating to the payment period in respect of which the application is made, by means of

(a) if the eligible individual is resident in Québec on 31 December of the base year, the prescribed form containing prescribed information which the individual encloses with the fiscal return the individual is required to file under section 1000 for that year, or would be required to file if the individual had tax payable for that year under this Part; or

(b) in any other case, the prescribed form containing prescribed information.

One application per couple.

If, at the end of the base year relating to a particular payment period, or to a particular month preceding 1 July 2016, an eligible individual ordinarily lives with another eligible individual who is the individual’s cohabiting spouse, the application of only one of them may be considered to be valid in respect of that period or that month, as the case may be.

Extention of time.

The Minister may, at any time, extend the time for filing the application to which the first paragraph refers.

Application validly made.

An application is considered validly made in accordance with this section only if the eligible individual and, if applicable, the individual’s cohabiting spouse at the end of the base year concerned have filed the document required by the first paragraph of section 1029.8.116.16 with the Minister.

Deemed application.

For the purposes of this section, an application is deemed to be filed with the Minister, at a particular time, by an eligible individual for a payment period where the individual and, if

applicable, the individual's cohabiting spouse at the end of the base year relating to that period filed, at the particular time, a fiscal return under section 1000 for that year and where, in that respect, the amount deemed to be an overpayment of the eligible individual's tax payable in respect of that period is determined by the formula in the first paragraph of section 1029.8.116.16 as if the value of A did not include the amount specified in subparagraph iii of subparagraph *a* of the second paragraph of that section and the value of B and C were equal to zero.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 132; 2017, c. 1, s. 327; 2019, c. 14, s. 407.

Document to be filed.

1029.8.116.19. The document to which the first paragraph of section 1029.8.116.16 refers is

(a) if the individual is resident in Québec on 31 December of the base year, the fiscal return the individual is required to file under section 1000 for the year, or would be required to file if the individual had tax payable for the year under this Part;

(b) if the individual is not resident in Québec on 31 December of the base year but is resident in Canada throughout that year, the return of income the individual is required to file under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for that year or a statement of income for that year that the individual files by means of the prescribed form containing prescribed information; and

(c) in any other case, a statement of income for the base year that the individual files by means of the prescribed form containing prescribed information.

Presumption.

If, in respect of a child, an individual receives for a month included in a particular payment period, or for a particular month preceding 1 July 2016, an amount deemed under section 1029.8.61.18 to be an overpayment of the individual's tax payable and, for the base year relating to that payment period or to the particular month, as the case may be, the document that the individual is required to file is any of the documents specified in subparagraphs *b* and *c* of the first paragraph, the document is deemed to be filed by the individual if the corresponding document referred to in paragraph *b* or *c* of section 1029.8.61.23 has been sent to Retraite Québec.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 133; 2015, c. 20, s. 61 [in force: O.C. 1034-2015].

Information concerning the eligible dwelling.

1029.8.116.19.1. The information referred to in the portion of subparagraph *b* of the second paragraph of section 1029.8.116.16 before subparagraph *i* is

(a) where, at the end of the base year, the eligible individual or the individual's cohabiting spouse owns the individual's eligible dwelling, the roll number or the identification number shown on the account of property taxes relating to the dwelling for that base year or, in the absence of such an account of property taxes, the dwelling's identification number shown on the information return that the body having jurisdiction over the territory where the dwelling is situated is required to send to the eligible individual or the individual's cohabiting spouse under the regulations made under section 1086, and, if applicable, the number of persons who own it; or

(b) where, at the end of the base year, the eligible individual or the individual's cohabiting spouse leases or subleases the individual's eligible dwelling, the number identifying the dwelling as shown on the information return the owner of the immovable in which the dwelling is situated is required, under the regulations made in accordance with section 1086, to send the individual or the spouse and, if applicable, the number of persons who lease or sublease it.

History: 2015, c. 36, s. 134; 2017, c. 1, s. 328.

Eligible individual deemed the owner, lessee or sublessee.

1029.8.116.20. If, at the end of the base year relating to a particular payment period or to a particular month preceding 1 July 2016, an eligible individual is not the owner, lessee or sublessee of the individual's eligible dwelling and the particular person who is the owner, lessee or sublessee of the dwelling is, at that time, either confined to a prison or a similar institution, or living in a dwelling that is the individual's principal place of residence and that is in a health services and social services network facility, and was, immediately before the beginning of being confined in the prison or similar institution or living in the dwelling, as the case may be, the cohabiting spouse of the individual with whom the particular person ordinarily lived, the eligible individual rather than the particular person is, for the purposes of subparagraph *b* of the second paragraph of section 1029.8.116.16, deemed, at the end of the base year, to be the owner, lessee or sublessee, as applicable, of the dwelling.

Exception.

However, the first paragraph does not apply if, at the end of the base year, the particular person is not the cohabiting spouse of the individual.

History: 2011, c. 1, s. 89; 2011, c. 34, s. 107; 2015, c. 36, s. 135.

Eligible individual deemed the owner.

1029.8.116.21. If, at the end of the base year relating to a particular payment period or to a particular month preceding 1 July 2016, an eligible individual is not the owner, lessee or sublessee of the individual's eligible dwelling and one or more particular persons who are the owners of the dwelling at that time are children in respect of whom the individual

received, for the last month of the base year, an amount deemed under section 1029.8.116.18 to be an overpayment of the individual's tax payable and who have not reached 18 years of age in that month, the eligible individual rather than each of the particular persons is, for the purposes of subparagraph *b* of the second paragraph of section 1029.8.116.16, deemed, at the end of the base year, to be the owner of the dwelling.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 135.

1029.8.116.22. *(Repealed).*

History: 2011, c. 1, s. 89; 2015, c. 36, s. 136.

1029.8.116.23. *(Repealed).*

History: 2011, c. 1, s. 89; 2015, c. 36, s. 136.

1029.8.116.24. *(Repealed).*

History: 2011, c. 1, s. 89; 2015, c. 36, s. 136.

Notice of determination.

1029.8.116.25. The Minister shall determine the amount that an eligible individual is entitled to receive for a particular payment period in respect of the amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable and shall send the individual a notice of determination in that respect.

New notice of determination.

The amount determined under the first paragraph is revised, if applicable, for the payment period or the first six months of the year 2016, to subtract from that amount any amount deemed, because of the application of section 1029.8.116.26.3, not to be an overpayment of the eligible individual's tax payable and a new notice giving an account of that revision is sent by the Minister to the individual.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 137.

§3. — *Payment*

Payment of the tax credit.

1029.8.116.26. The Minister shall pay to an eligible individual who is entitled to receive, for a particular payment period, the amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable, at the beginning of any of the payment months specified in the second paragraph, all or a fraction, as the case may be, of the amount determined in respect of the individual for that period under the first paragraph of section 1029.8.116.25.

Payment terms.

The payment of the amount so determined is made as follows:

(a) if the amount is equal to or greater than \$800, one-twelfth of the amount is paid within the first five days of each of the months of the particular payment period;

(b) if the amount is greater than \$240 but less than \$800, one-quarter of the amount is paid within the first five days of each of the months of July, October, January and April of that period; or

(c) in any other case, all of the amount is paid within the first five days of the month of July of that period.

Direct deposit in bank account.

Despite the first paragraph, the Minister is not required to pay to an individual an amount referred to in that paragraph if the individual has not filed a document in which the individual consents to have the payment be made by direct deposit in a bank account held by the individual at a financial institution listed in Part I of Appendix I to Rule D4 – Institution Numbers and Clearing Agency/Representative Arrangements of the Automated Clearing Settlement System Rules Manual, as amended from time to time, of the Canadian Payments Association.

Year 2011.

However, for a particular month of the year 2011, the amount paid by the Minister to an eligible individual may not exceed the amount by which the amount, referred to in the first paragraph (as it reads in its application before 1 July 2016), that is determined in respect of the eligible individual for the particular month exceeds the amount determined, subject to the sixth paragraph, by the formula

A – B.

Interpretation.

In the formula in the fourth paragraph,

(a) A is the aggregate of all amounts each of which is the portion of a social assistance benefit or of a social solidarity allowance that is received for any of the months of January through June 2011 by the eligible individual or the person who, at the beginning of the particular month, is the cohabiting spouse of the individual and ordinarily lives with that individual, under the Individual and Family Assistance Act (chapter A-13.1.1), and that is attributable to the amount referred to in the fourth paragraph of section 1029.8.109.4; and

(b) B is

i. if the particular month is July 2011, an amount equal to zero, or

ii. in any other case, the aggregate of all amounts each of which is the amount by which the amount, to which the first paragraph, as it read in its application before 1 July 2016,

refers, that is determined in respect of the eligible individual for a month preceding the particular month exceeds the excess amount determined in respect of the individual for the preceding month in accordance with the fourth paragraph.

Social assistance recipient.

The amount determined by the formula in the fourth paragraph may not exceed 50% of the amount, to which the first paragraph, as it read in its application before 1 July 2016, refers, that is determined in respect of the eligible individual for the particular month if

(a) the eligible individual is, for the particular month, a recipient under a financial assistance program provided for in Chapter I or II of Title II of the Individual and Family Assistance Act; and

(b) the eligible individual's status as a recipient under such a program has been brought to the attention of the Minister at least 21 days before the date provided for the payment of the amount, to which the first paragraph, as it read in its application before 1 July 2016, refers, that is determined in respect of the individual for the particular month.

Benefit or allowance deemed received.

For the purposes of subparagraph *a* of the fifth paragraph, the social assistance benefit or social solidarity allowance that the Minister of Employment and Social Solidarity is deemed to pay to the individual because of the application of subparagraph *a* of the fifth paragraph of section 1029.8.109.4 is deemed to be received by the individual or the person under the Individual and Family Assistance Act.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 138; 2017, c. 1, s. 329.

Cessation of payments.

1029.8.116.26.1. An eligible individual is not entitled to receive, for a particular payment period or for a particular month preceding 1 July 2016, an amount, in respect of an amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable from the payment month or the particular month that follows the month of the individual's death or the month in which the individual ceases to be resident in Québec.

Cessation of payments.

Similarly, an eligible individual is not entitled to receive, for a particular payment period or for a particular month preceding 1 July 2016, an amount, in respect of an amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable, if the individual is confined to a prison or similar institution immediately before the beginning of the month in which the payment of the amount would otherwise be made.

History: 2015, c. 36, s. 139.

Payment transferred to spouse.

1029.8.116.26.2. The Minister may pay to a person who is the cohabiting spouse of an eligible individual at the end of the base year relating to a particular payment period or relating to a particular month preceding 1 July 2016 an amount that the individual would have been entitled to receive, had it not been for the application of section 1029.8.116.26.1, in respect of an amount that, under section 1029.8.116.16, is deemed for that period or month to be an overpayment of the individual's tax payable, if the person applies to the Minister to that effect on or before 31 December of the fourth year following that base year and is an eligible individual in respect of that period or month, and if none of the circumstances provided for in section 1029.8.116.26.1 applies to the person.

Exception.

The first paragraph does not apply to an amount that the eligible individual is not entitled to receive because the individual ceased to be resident in Québec.

Extension of time and direct deposit.

The third paragraph of sections 1029.8.116.18 and 1029.8.116.26 apply to the first paragraph, with the necessary modifications.

History: 2015, c. 36, s. 139; 2017, c. 1, s. 330.

Amount deemed not to be an overpayment of the tax payable.

1029.8.116.26.3. Every amount that an eligible individual is no longer entitled to receive for a particular payment period or for a particular month preceding 1 July 2016 because of the application of section 1029.8.116.26.1, is deemed, despite section 1029.8.116.16, not to be an overpayment of the eligible individual's tax payable.

Exception.

However, the first paragraph does not apply in respect of an amount that is paid in accordance with section 1029.8.116.26.2.

History: 2015, c. 36, s. 139.

Discretionary payment.

1029.8.116.27. In exceptional circumstances and if convinced that it is in the family's interest, the Minister may pay to a person who is the cohabiting spouse of an eligible individual at the end of the base year relating to a particular payment period or to a particular month preceding 1 July 2016 an amount that the individual is entitled to receive in respect of an amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax

payable, if that person is also an eligible individual in respect of that period or particular month, as the case may be.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 140.

Ascertainment of entitlement.

1029.8.116.28. The Minister may require that an individual who, for a particular payment period, applies for, or receives all or part of, the amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable provide the Minister with documents or information so that the Minister may ascertain whether the individual is entitled to receive that amount.

Consequences of failure to provide required information.

The Minister may suspend the payment of any amount in respect of the amount referred to in the first paragraph until the Minister has been provided with the required documents or information if the individual fails to provide the required documents or information before the expiry of 45 days after the date of the request.

Suspension of payments during inquiry.

Similarly, the Minister may suspend such payments for the duration of an inquiry on the individual's eligibility. The Minister shall conduct the inquiry diligently.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 140; 2017, c. 1, s. 331.

Minimum amount.

1029.8.116.29. Where the amount that is determined in respect of an eligible individual for a particular payment period in respect of the amount deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable is less than \$2, the Minister is not bound to pay that amount or, where the eligible individual's application for the particular payment period is referred to in the fifth paragraph of section 1029.8.116.18, send a notice of determination in that respect, unless the eligible individual applies to the Minister to have the notice sent.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 140; 2019, c. 14, s. 408.

Consent to payment by direct deposit.

1029.8.116.29.1. If the Minister has not paid an amount deemed under section 1029.8.116.16 to be an overpayment of the tax payable by an individual because the individual or, if section 1029.8.116.26.2 applies, the person who is the individual's cohabiting spouse has not consented to have payments be made by direct deposit or has withdrawn such consent and, at a particular time, the individual or the person, as the case may be, files the document to which the third paragraph of section 1029.8.116.26 refers, the Minister shall pay the amount to the individual or the person, as the case may be, within 45 days after that time.

Amount deemed not to be an overpayment.

However, such an amount is deemed, despite section 1029.8.116.16, not to be an overpayment of the tax payable by the individual if the individual or, if section 1029.8.116.26.2 applies, the person who is the individual's cohabiting spouse has not consented or again consented to have payments be made by direct deposit on or before 31 December of the fourth year following the base year relating to the particular payment period to which the amount relates.

Extension of time.

The Minister may, at any time, extend the time provided for in the second paragraph for consenting to have payments be made by direct deposit.

History: 2017, c. 1, s. 332.

§4. — *Administrative provisions*

Interest paid by the Minister.

1029.8.116.30. If an amount is refunded to an individual, or allocated to one of the individual's liabilities, in respect of an amount that, for a particular payment period, is deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable, interest is to be paid to the individual on the amount for the period ending on the day the overpayment is refunded or allocated and beginning on the day that is the latest of

(a) the sixth day of the payment month to which that amount relates;

(b) the 46th day following the day on which the application referred to in the first paragraph of section 1029.8.116.16 has been filed with the Minister for the payment period;

(b.1) in the case provided for in the first paragraph of section 1029.8.116.29.1, the 46th day following the day the individual consented or again consented to have payments be made by direct deposit;

(c) *(subparagraph repealed)*;

(d) in the case of an additional amount determined for the payment period following a written application to amend a fiscal return filed under this Part for the base year relating to that period, the 46th day following the day on which the Minister received the application; and

(e) in the case of an additional amount determined for the payment period following the amendment of a return of income filed under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the base year relating to that period or of an income statement filed by means of the prescribed form for that base year, the

46th day following the day on which the amendment has been brought to the attention of the Minister.

Interest paid to spouse.

Similarly, if an amount is, in accordance with section 1029.8.116.26.2, refunded to a person who is the cohabiting spouse of an eligible individual at the end of the base year relating to a particular payment period or to a particular month preceding 1 July 2016, or allocated to one of the individual's liabilities, in respect of an amount that, for that payment period or for the particular month, as the case may be, is deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable for the taxation year to which it relates, interest is to be paid to the person on the amount for the period ending on the day the overpayment is refunded or allocated and beginning on the day that is the later of

(a) the sixth day of the payment month, determined in respect of the individual, or of the particular month, to which the amount relates;

(b) the 46th day following the day on which the Minister received, in accordance with the first paragraph of section 1029.8.116.26.2, the person's application for the payment of the amount;

(c) in the case provided for in the first paragraph of section 1029.8.116.29.1, the 46th day following the day the person consented or again consented to have payments be made by direct deposit; and

(d) in the case of an additional amount that would be referred to in subparagraph *d* or *e* of the first paragraph but for section 1029.8.116.26.1, the 46th day following the day to which that subparagraph refers in relation to that additional amount.

Exception.

However, the Minister is not bound to pay the total of the amounts of interest determined, for a particular payment period, under the first paragraph in respect of an individual or under the second paragraph in respect of a person, if the amount is less than \$1.

Transitional rule.

The rule of the third paragraph applies to the total of the amounts of interest determined in respect of a person under the second paragraph for the first six months of the year 2016 and, for that purpose, the aggregate of those months is deemed to be a payment period.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 141; 2017, c. 1, s. 333.

Interest paid to the Minister.

1029.8.116.31. The amount by which the amount that is paid to an individual in respect of the amount that, for a

particular payment period, is deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable, exceeds the amount that should have been paid to the individual for that period, is deemed to be tax payable by the individual under this Part from the date of determination of that excess amount and bears interest from that date to the day of payment at the rate set under section 28 of the Tax Administration Act (chapter A-6.002).

History: 2011, c. 1, s. 89; 2010, c. 31, s. 175; 2015, c. 36, s. 142.

Solidary liability.

1029.8.116.32. If, for a particular payment period or for a particular month preceding 1 July 2016, the Minister has refunded to an individual, or allocated to one of the individual's liabilities, an amount exceeding that to which the individual was entitled in respect of the amount that, for that period or for that month, as the case may be, is deemed under section 1029.8.116.16 to be an overpayment of the individual's tax payable, the individual and the person who at the end of the base year relating to that period or to that particular month, as the case may be, is the individual's cohabiting spouse with whom the individual ordinarily lives are solidarily liable for the payment of the excess amount.

Liability not limited.

However, nothing in this section limits the liability of the individual or of that person under any other provision of this Act.

History: 2011, c. 1, s. 89; 2015, c. 36, s. 143.

Assessment.

1029.8.116.33. The Minister may at any time assess the cohabiting spouse of an individual in respect of an amount payable under section 1029.8.116.32, and this Book applies, with the necessary modifications, to that assessment as if it had been made under Title II.

History: 2011, c. 1, s. 89.

Debt recovery from income tax refund — maximum allocation.

1029.8.116.34. If a person is a debtor under a fiscal law or about to become so, or is in debt to the State under an Act, other than a fiscal law, referred to in a regulation made under the second paragraph of section 31 of the Tax Administration Act (chapter A-6.002), and the person is described in the second paragraph for a payment month (in this section referred to as the "particular month"), the Minister may not, despite that section 31, allocate to the payment of the debt of that person more than 50% of the amount to be paid to the person for the particular month in respect of the amount deemed under section 1029.8.116.16 to be an overpayment of the person's tax payable.

Person.

The person referred to in the first paragraph is

(a) a recipient under a financial assistance program provided for in any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or in Chapter III of Title II of that Act, as it read before being repealed, if the person's status as a recipient under such a program has been brought to the attention of the Minister at least 21 days before the date provided for the payment of the amount for the particular month; or

(b) a person whose family income for the base year relating to the payment period that includes the particular month is equal to or less than \$21,105, according to the last notice of determination sent to the person.

History: 2011, c. 1, s. 89; 2010, c. 31, s. 175; 2015, c. 21, s. 489; 2015, c. 36, s. 144; 2019, c. 14, s. 409.

Contestation of information from the Régie des rentes du Québec.

1029.8.116.35. Any contestation in respect of the accuracy of information that is communicated to the Minister by Retraite Québec in relation to an individual who receives an amount deemed under section 1029.8.61.18 to be an overpayment of the individual's tax payable, to the person in respect of whom an individual receives the deemed amount or to the custody, shared or not, of that person, and that is used by the Minister for the purposes of this division, must be brought in accordance with sections 1029.8.61.39 to 1029.8.61.41.

Contestation of information from the Minister of Employment and Social Solidarity.

Any contestation in respect of the accuracy of information that is communicated to the Minister by the Minister of Employment and Social Solidarity in relation to an individual's eligibility to a financial assistance program provided for in any of Chapters I, II and V of Title II of the Individual and Family Assistance Act (chapter A-13.1.1) or Chapter III of Title II of that Act, as it read before being repealed, and that is used by the Minister for the purposes of this division, must be brought in accordance with Chapter III of Title III of that Act.

History: 2011, c. 1, s. 89; 2012, c. 8, s. 238; 2015, c. 36, s. 145; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; 2019, c. 14, s. 410.

**DIVISION II.17.3
CREDIT ESTABLISHING A FISCAL SHIELD**

§1. — *Interpretation and general rules*

Definitions:

1029.8.116.36. In this division,

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“eligible work income”;

“eligible work income” of an individual for a taxation year means the aggregate of

(a) subject to section 1029.8.116.37, the individual's income for the year from an office or employment computed under Chapters I and II of Title II of Book III;

(b) the amount by which the individual's income for the year from any business the individual carries on either alone or as a partner actively engaged in the business exceeds the aggregate of the individual's losses for the year from such businesses; and

(c) an amount included in computing the individual's income for the year under paragraph e.2 or e.6 of section 311 or paragraph h of section 312;

“family income”;

“family income” of an individual for a taxation year has the meaning assigned by section 1029.8.67;

“total income”.

“total income” of an individual for a taxation year has the meaning assigned by section 1029.8.116.1.

History: 2015, c. 36, s. 146.

Income from a previous office or employment.

1029.8.116.37. For the purpose of computing an individual's eligible work income for a taxation year, no account is to be taken of an amount included in computing the individual's income for the year from a previous office or employment, if each of the amounts that make up the income is the value of a benefit received or enjoyed by the individual in the year because of that previous office or employment.

History: 2015, c. 36, s. 146.

§2. — *Credit*

Credit.

1029.8.116.38. An individual who is resident in Québec at the end of 31 December of a taxation year (in this section and section 1029.8.116.39 referred to as the “particular year”) is deemed to have paid to the Minister on the individual's balance-due day for the particular year, on account of the individual's tax payable for the particular year, provided that the individual and, if applicable, the individual's eligible spouse for the particular year file a fiscal return under section 1000 for the particular year, the amount determined by the formula

$$(A - B) + (C - D).$$

Death of the individual.

For the purposes of the first paragraph, an individual who was resident in Québec immediately before death is deemed to be resident in Québec at the end of 31 December of the year of the individual's death.

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of the amount that the individual would be deemed to have paid to the Minister for the particular year under section 1029.8.116.5 or 1029.8.116.5.0.1 and, if applicable, the amount that the individual's eligible spouse for the particular year would be deemed to have paid to the Minister for the particular year under either of those sections if the individual's total income for the particular year or, as the case may be, that of the individual's eligible spouse for the particular year were the individual's modified total income for the particular year;

(b) B is the aggregate of the amount that the individual is deemed to have paid to the Minister for the particular year under section 1029.8.116.5 or 1029.8.116.5.0.1 and, if applicable, the amount that the individual's eligible spouse for the particular year is deemed to have paid to the Minister for the particular year under either of those sections;

(c) C is the aggregate of the amount that the individual would be deemed to have paid to the Minister for the particular year under section 1029.8.79 and, if applicable, the amount that the individual's eligible spouse for the particular year would be deemed to have paid to the Minister for the particular year under that section if the individual's family income for the particular year or, as the case may be, that of the individual's eligible spouse for the particular year were the individual's modified family income for the particular year; and

(d) D is the aggregate of the amount that the individual is deemed to have paid to the Minister for the particular year under section 1029.8.79 and, if applicable, the amount that the individual's eligible spouse for the particular year is deemed to have paid to the Minister for the particular year under that section.

Modified total income.

For the purposes of subparagraph *a* of the third paragraph and section 1029.8.116.39, "modified total income" of an individual for a particular year means an amount equal to the amount by which the individual's total income for the particular year exceeds 75% of the lesser of

(a) the amount equal to the amount by which the individual's total income for the particular year exceeds the aggregate of the individual's income for the taxation year that precedes the particular year (in this section and section 1029.8.116.39 referred to as the "preceding year") and, if applicable, the income for the preceding year of the individual's eligible spouse for the particular year; and

(b) the amount equal to the total of

i. the lesser of \$4,000 and the amount by which the individual's eligible work income for the particular year

exceeds the individual's eligible work income for the preceding year, and

ii. the lesser of \$4,000 and the amount by which the eligible work income for the particular year of the individual's eligible spouse for the particular year exceeds the eligible work income for the preceding year of the individual's eligible spouse for the particular year.

Modified family income.

For the purposes of subparagraph *c* of the third paragraph, "modified family income" of an individual for a particular year means an amount equal to the amount by which the individual's family income for the particular year exceeds 75% of the lesser of

(a) the amount equal to the amount by which the individual's family income for the particular year exceeds the aggregate of the individual's income for the preceding year and, if applicable, the income for the preceding year of the individual's eligible spouse for the particular year; and

(b) the amount determined in accordance with subparagraph *b* of the fourth paragraph.

History: 2015, c. 36, s. 146; 2017, c. 1, s. 334; 2019, c. 14, s. 411.

Special rules for determining the modified total income.

1029.8.116.39. For the purpose of determining an individual's modified total income for a particular year, the following rules apply:

(a) the individual's eligible work income for the particular year or, if applicable, that of the individual's eligible spouse for the particular year is deemed to be equal to zero if, at the end of 31 December of the particular year or, if the individual died in the particular year, immediately before the individual's death, the individual or the eligible spouse, as the case may be,

i. is not resident in Québec, or

ii. is confined to a prison or similar institution and has been so confined during the particular year for one or more periods totalling more than 183 days; and

(b) the individual's income for the preceding year or, if applicable, that of the individual's eligible spouse for the particular year is deemed to be equal to zero if, at the end of 31 December of the preceding year, the individual or the eligible spouse, as the case may be,

i. is not resident in Québec, or

ii. is confined to a prison or similar institution and has been so confined during the preceding year for one or more periods totalling more than 183 days.

Person deemed confined to a prison.

For the purposes of the first paragraph, a person who has been allowed, in a taxation year, to be temporarily absent from a prison or similar institution to which the person has been confined is deemed to be confined to that prison or similar institution during each day of the year during which the person has been so allowed to be temporarily absent.

History: 2015, c. 36, s. 146; 2017, c. 1, s. 335.

Credit applied for by both spouses.

1029.8.116.40. If two individuals are eligible spouses of each other for a taxation year, the total of the amounts that each of those individuals is deemed to have paid to the Minister on account of tax payable for the year under the first paragraph of section 1029.8.116.38 may not exceed the amount that only one of those individuals would, but for this section, be so deemed to have paid to the Minister for the year.

Determination by the Minister.

Where those individuals cannot agree as to what portion of the amount each would, but for this section, be so deemed to have paid to the Minister for the year, the Minister may determine the portion of that amount for the year.

History: 2015, c. 36, s. 146; 2019, c. 14, s. 412.

DIVISION II.18 TAX CREDIT FOR MEDICAL EXPENSES

§1. — Interpretation**Definitions:**

1029.8.117. In this division,

“eligible individual”;

“eligible individual” for a taxation year means an individual, other than a trust,

(a) who is resident in Canada throughout the year or, if the individual dies in the year, throughout the portion of the year before the individual’s death;

(b) who, before the end of the year, has attained the age of 18 years; and

(c) the aggregate of whose income for the year from all offices and employments, computed without reference to section 43, and from all businesses each of which is a business carried on by the individual either alone or as a partner actively engaged in the business, and of any amount included in computing the individual’s income for the year under paragraph e.2 or e.6 of section 311, is at least \$2,500;

“family income”.

“family income” of an individual for a taxation year means the aggregate of all amounts each of which is the income of the individual for the year and of the individual’s eligible

spouse for the year within the meaning of sections 776.41.1 to 776.41.4.

Income from a previous office or employment.

For the purposes of paragraph c of the definition of “eligible individual” in the first paragraph, the income of an individual for a taxation year from a previous office or employment is deemed to be equal to zero, if each of the amounts that make up the income is the value of a benefit received or enjoyed by the individual in the year because of that office or employment.

History: 2000, c. 5, s. 271; 2002, c. 40, s. 224; 2003, c. 9, s. 362; 2006, c. 36, s. 207; 2010, c. 5, s. 165; 2015, c. 21, s. 490.

Corresponding Federal Provision: 122.51(1) “eligible individual” and “adjusted income” and 122.6.

§2. — Credit**Credit.**

1029.8.118. An eligible individual, for a taxation year, who is resident in Québec on 31 December of that year and who files a fiscal return under section 1000 for that year is deemed to have paid to the Minister, on the eligible individual’s balance-due day for that year, on account of the eligible individual’s tax payable for the year under this Part, an amount equal to the amount determined by the formula

A – B.

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the lesser of \$1,000 and the total of

i. the product obtained by multiplying by the factor specified in the third paragraph for the taxation year the amount determined in accordance with section 752.0.11 for the purpose of computing the tax payable under this Part by the eligible individual for the taxation year, and

ii. 25% of the aggregate of all amounts each of which is an amount deductible under section 358.0.1 in computing the income of the eligible individual for the taxation year; and

(b) B is 5% of the amount by which the individual’s family income for the year exceeds \$18,600.

Factor determined.

The factor to which the second paragraph refers is

(a) 25/22, where the taxation year is the year 2000;

(b) 25/20.75, where the taxation year is the year 2001;

(c) 25/20, where the taxation year is the year 2002 or a subsequent taxation year.

Application.

For the purposes of this section, an individual who was resident in Québec immediately before the individual's death is deemed to be resident in Québec on 31 December of the year in which the individual died.

Individual not resident in Canada throughout the year.

For the purposes of the definition of "family income" in the first paragraph of section 1029.8.117, where an individual was not resident in Canada throughout a taxation year, the individual's income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year.

History: 2000, c. 5, s. 271; 2001, c. 51, s. 198; 2001, c. 53, s. 228; 2003, c. 9, s. 363; 2005, c. 1, s. 268; 2005, c. 38, s. 289; 2006, c. 36, s. 208.

Corresponding Federal Provision: 122.51(2).

DIVISION II.19**CREDIT FOR TOP-LEVEL ATHLETES****Eligible individual**

1029.8.119. In this division, "eligible individual" means an individual who holds a certificate issued by the Minister of Education, Recreation and Sports for a taxation year, certifying that the individual is recognized as an athlete having achieved the "Excellence", "Élite" or "Relève" performance level, as the case may be, in respect of an individual sport or a team sport in which the individual participated in the year.

History: 2001, c. 51, s. 199; 2003, c. 19, s. 251; 2005, c. 28, s. 196; 2010, c. 25, s. 183.

Credit.

1029.8.120. An eligible individual resident in Québec at the end of 31 December of a taxation year who encloses the certificate issued to the eligible individual for the year by the Minister of Education, Recreation and Sports with the fiscal return the eligible individual is required to file under section 1000 for the year, or would be required to so file if tax were payable by the eligible individual for that year under this Part, is deemed to have paid to the Minister, on the eligible individual's balance-due day for the year, on account of the eligible individual's tax payable for that taxation year under this Part, an amount equal to the aggregate of

(a) the amount obtained by multiplying \$4,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Excellence" performance level in respect of an individual sport in which the eligible individual participated in the year, is of the number of days in the taxation year;

(b) the amount obtained by multiplying \$4,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Élite" performance level in respect of an individual sport in which the eligible individual participated in the year, is of the number of days in the taxation year;

(c) the amount obtained by multiplying \$2,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Relève" performance level in respect of an individual sport in which the eligible individual participated in the year, is of the number of days in the taxation year;

(d) the amount obtained by multiplying \$2,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Excellence" performance level in respect of a team sport in which the eligible individual participated in the year, is of the number of days in the taxation year;

(e) the amount obtained by multiplying \$2,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Élite" performance level in respect of a team sport in which the eligible individual participated in the year, is of the number of days in the taxation year; and

(f) the amount obtained by multiplying \$1,000 by the proportion that the number of days in the year that is specified in the certificate, for which the eligible individual is recognized as having achieved the "Relève" performance level in respect of a team sport in which the eligible individual participated in the year, is of the number of days in the taxation year.

Restriction.

Where, in respect of a particular day of a taxation year, an amount is deemed, because of any of subparagraphs *a* to *f* of the first paragraph, to have been paid to the Minister by an eligible individual for the year, no amount may be deemed to have been paid to the Minister by that eligible individual, for the year, in respect of that particular day because of any other of those subparagraphs.

Deceased individual.

For the purposes of the first paragraph, an eligible individual who was resident in Québec immediately before the eligible individual's death is deemed to be resident in Québec at the end of 31 December of the year in which the eligible individual died, and no amount shall be deemed to have been

paid under the first paragraph to the Minister by the eligible individual in respect of a day that is after the day of death.

History: 2001, c. 51, s. 199; 2003, c. 19, s. 251; 2005, c. 28, s. 196.

Individual exempt from tax.

1029.8.121. An eligible individual shall not be deemed to have paid to the Minister an amount under this division for a taxation year if the eligible individual is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2001, c. 51, s. 199; 2007, c. 12, s. 213; 2010, c. 31, s. 175.

DIVISION II.20 CREDIT FOR NEW GRADUATES WORKING IN THE RESOURCE REGIONS

§1. — *Interpretation and general*

Definitions:

1029.8.122. In this division,

“base period”;

“base period” of an individual means the first 52 weeks of the aggregate of all periods each of which is a period during which the individual

(a) holds eligible employment the duties of which are related to a business carried on by the employer in an eligible region; and

(b) ordinarily performs the duties relating to that eligible employment in an eligible region;

“eligible employment”;

“eligible employment” of an individual means an office or employment that the individual begins to hold in the 24-month period that follows the date on which the individual successfully completes the courses and, where applicable, the internships leading to the awarding of a recognized diploma, or is awarded a recognized diploma that is a master’s or doctoral degree under an educational program requiring the writing of an essay, dissertation or thesis if

(a) the individual begins to perform the duties relating to the office or employment after 11 March 2003;

(b) on taking up employment, the duties relating to that office or employment must ordinarily be performed in an eligible region and be related to a business carried on by the employer in that eligible region; and

(c) the knowledge and skills obtained in the course of that training or program are related to the duties performed by the individual in connection with the office or employment;

“eligible region”;

“eligible region” means

(a) one of the following administrative regions described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1):

- i. administrative region 01 Bas-Saint-Laurent,
- ii. administrative region 02 Saguenay–Lac-Saint-Jean,
- iii. administrative region 08 Abitibi-Témiscamingue,
- iv. administrative region 09 Côte-Nord,
- v. administrative region 10 Nord-du-Québec, or
- vi. administrative region 11 Gaspésie–Îles-de-la-Madeleine;

(b) one of the following regional county municipalities:

- i. Municipalité régionale de comté d’Antoine-Labelle,
- ii. (*subparagraph repealed*);
- iii. Municipalité régionale de comté de La Vallée-de-la-Gatineau,
- iv. Municipalité régionale de comté de Mékinac, or
- v. Municipalité régionale de comté de Pontiac; or

(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);

“recognized diploma”.

“recognized diploma” means

(a) an attestation of vocational education, a diploma of vocational studies or an attestation of vocational specialization, awarded by the Minister of Education, Recreation and Sports;

(b) a diploma of college studies in technical training awarded by the Minister of Higher Education, Research, Science and Technology or by a college-level educational institution to which the Minister of Higher Education, Research, Science and Technology has delegated the responsibility of awarding such a diploma;

(c) an attestation of college studies in technical training awarded by a college-level educational institution of Québec;

(d) an undergraduate or graduate diploma or degree awarded by a Québec university;

(e) a diploma awarded by an educational institution situated outside Québec that is considered, following a comparative assessment carried out by the Minister of Immigration and Cultural Communities, to be comparable to one of the diplomas referred to in paragraphs *a* to *d*; or

(f) an attestation of studies for a post-secondary educational program of the Conservatoire de musique et d’art dramatique du Québec, the École du Barreau du Québec, the École

ationale de police du Québec or the National Theatre School of Canada.

History: 2005, c. 1, s. 269; 2005, c. 24, s. 51; 2005, c. 28, s. 195; 2006, c. 13, s. 196; 2006, c. 36, s. 209; 2013, c. 28, s. 140.

Succession of employers.

1029.8.123. For the purposes of the definition of “eligible employment” in section 1029.8.122, in relation to an individual, where, at a particular time, an employer of the individual, in this paragraph referred to as the “new employer”, immediately succeeds another employer of the individual, in this paragraph referred to as the “former employer”, as a consequence of the formation or winding-up of a corporation or of the acquisition of a major portion of the property of a business or of a separate part of a business, without there being an interruption of the services provided by the individual, the new employer is deemed to be the same as the former employer.

History: 2005, c. 1, s. 269.

§2. — *Credit*

Credit.

1029.8.124. An individual who, at the end of 31 December of a taxation year preceding the taxation year 2006, is resident in Québec in an eligible region and encloses with the fiscal return the individual is required to file under section 1000 for the year, or would be required to so file if tax were payable by the individual for that year under this Part, the prescribed form containing the prescribed information is deemed to have paid to the Minister, on the individual’s balance-due day for the year, on account of the individual’s tax payable for that year under this Part, an amount equal to the lesser of

(a) 40% of the aggregate of all amounts each of which is the salary or wages of the individual for the year from an eligible employment and attributable to the individual’s base period; and

(b) the amount by which \$8,000 exceeds the aggregate of all amounts each of which is an amount that the individual is deemed to have paid to the Minister, under this section, for a preceding taxation year.

Individual’s death.

For the purposes of the first paragraph, an individual who was resident in Québec in an eligible region immediately before the individual’s death is deemed to be resident in Québec in an eligible region at the end of 31 December of the year in which the individual died.

History: 2005, c. 1, s. 269; 2006, c. 36, s. 210.

Individual exempt from tax.

1029.8.125. An individual shall not be deemed to have paid to the Minister an amount under section 1029.8.124 for a taxation year if the individual is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2005, c. 1, s. 269; 2007, c. 12, s. 214; 2010, c. 31, s. 175.

DIVISION II.21

CREDIT TO PROMOTE EDUCATION SAVINGS

§1. — *Interpretation*

Definitions:

1029.8.126. In this division,

“*amount of eligible contributions*”;

“amount of eligible contributions” in respect of a beneficiary under an education savings plan for a taxation year means the amount that is the aggregate of all contributions each of which is a contribution made to the plan in the year by or on behalf of a subscriber under the plan in respect of the beneficiary, provided that the contribution has not been withdrawn from the plan at the time the application referred to in subparagraph *a* of the second paragraph of section 1029.8.128 is made, and provided that the beneficiary is under 17 years of age at the end of the preceding year and, if the beneficiary is 16 or 17 years of age at the end of the year, that the beneficiary is an eligible beneficiary for the year;

“*beneficiary*”;

“beneficiary” has the meaning assigned by section 890.15;

“*brother*”;

“brother” includes, without reference to section 1, a person who is the son of the spouse of the father or mother of the beneficiary;

“*Canada learning bond*”;

“Canada learning bond” has the meaning assigned by subsection 1 of section 2 of the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26);

“*CES grant*”;

“CES grant” has the meaning assigned by subsection 1 of section 2 of the Canada Education Savings Act;

“*CLB account*”;

“CLB account” has the meaning assigned by section 1 of the Canada Education Savings Regulations made under the Canada Education Savings Act;

“*cohabiting spouse*”;

“cohabiting spouse” has the meaning assigned by section 1029.8.61.8;

“*designated provincial program*”;

“designated provincial program” has the meaning assigned by section 890.15;

“education savings incentive account”;

“education savings incentive account” of a registered education savings plan means an account that includes any amount received by a trust governed by the plan on account of an education savings incentive under section 1029.8.128;

“education savings incentive agreement”;

“education savings incentive agreement” means the agreement described in section 1029.8.140;

“education savings plan”;

“education savings plan” has the meaning assigned by section 890.15;

“educational assistance payment”;

“educational assistance payment” has the meaning assigned by section 890.15;

“eligible beneficiary”;

“eligible beneficiary” for a taxation year means a beneficiary who is 16 or 17 years of age at the end of the year and in respect of whom

(a) a CES grant has been paid for the year in relation to a contribution made in the year in respect of the beneficiary to a registered education savings plan;

(b) *(paragraph repealed)*;

(c) in the case of the year 2007, a registered education savings plan existed in at least four years before the year 2007; or

(d) in the case of the year 2008 and if the beneficiary reached 17 years of age in that year, a registered education savings plan existed in at least four years before the year 2007;

“grant account”;

“grant account” has the meaning assigned by section 1 of the Canada Education Savings Regulations;

“increase amount”;

“increase amount” for a taxation year means, provided that an education savings plan has only one beneficiary or, if it has more than one, that those beneficiaries are brothers and sisters,

(a) if the applicable family income for the year in respect of the beneficiary is not more than \$37,500, the lesser of \$50 and 10% of the amount of eligible contributions in respect of the beneficiary under the plan for the year;

(b) if the applicable family income for the year in respect of the beneficiary is greater than \$37,500 but does not exceed \$75,000, the lesser of \$25 and 5% of the amount of eligible contributions in respect of the beneficiary under the plan for the year; and

(c) in any other case, zero;

“promoter”;

“promoter” has the meaning assigned by paragraph *b* of the definition of “education savings plan” in section 890.15;

“sister”;

“sister” includes, without reference to section 1, a person who is the daughter of the spouse of the father or mother of the beneficiary;

“subscriber”;

“subscriber” has the meaning assigned by section 890.15;

“trust”.

“trust” has the meaning assigned by section 890.15.

Restriction.

For the purposes of the definition of “amount of eligible contributions” in the first paragraph, a contribution made to an education savings plan in a taxation year does not include the portion of the contribution that—if added to the other contributions made or deemed to be made, for the purposes of Part X.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to registered education savings plans in respect of the beneficiary, in the year or a preceding taxation year—exceeds the RESP lifetime limit for the year, within the meaning assigned by subsection 1 of section 204.9 of that Act.

History: 2009, c. 5, s. 480; 2010, c. 5, s. 166; 2011, c. 6, s. 204.

Applicable family income.

1029.8.127. For the purposes of the definition of “increase amount” in the first paragraph of section 1029.8.126, the applicable family income for a particular taxation year in respect of a beneficiary means

(a) if only one individual is entitled to receive, for the first month of the year that follows the particular taxation year and in respect of the beneficiary, an amount deemed under section 1029.8.61.18 to be an overpayment of the individual’s tax payable, the aggregate of the individual’s income for the taxation year that precedes the particular taxation year and the income, for that preceding taxation year, of the individual’s cohabiting spouse at the beginning of that month; or

(b) if more than one individual is entitled to receive, for the first month of the year that follows the particular taxation year and in respect of the beneficiary, an amount deemed under section 1029.8.61.18 to be an overpayment of the individual’s tax payable, one half of the aggregate of the income of each of those individuals for the taxation year that precedes the particular taxation year and the income, for that preceding taxation year, of each cohabiting spouse, at the beginning of that month, of each of those individuals.

Exception.

For the purposes of the first paragraph, the applicable family income for a particular taxation year in respect of a beneficiary is deemed to be equal to zero if the beneficiary is lodged or sheltered pursuant to the law at the beginning of

the first month of the year that follows the particular taxation year.

History: 2009, c. 5, s. 480.

§2. — *Credit*

Credit.

1029.8.128. Subject to sections 1029.8.131 to 1029.8.134, if a trust governed by an education savings plan is resident in Québec at the end of a taxation year and the conditions set out in the second paragraph are met, an amount equal to the aggregate of the following amounts is deemed, at the end of the year and in respect of each beneficiary under the plan who is resident in Québec at the end of the year, to be an overpayment of the trust's tax payable for that year under this Part (in this division referred to as the "education savings incentive"):

(a) the least of

i. 10% of the amount of eligible contributions in respect of the beneficiary for the year,

ii. \$500, and

iii. the unused CES grant room for the beneficiary for the year; and

(b) the increase amount in respect of the beneficiary for the year.

Conditions of application.

The conditions to which the first paragraph refers are as follows:

(a) the trustee under the plan files with the Minister an application for the education savings incentive in the manner described in the education savings incentive agreement

i. on or before the ninetieth day that follows the end of the year,

ii. within such longer period as the Minister considers reasonable but not after 31 December of the third year that follows the year for which the education savings incentive is claimed, or

iii. on or before 31 March 2012, if the application is made in respect of contributions deemed to have been made in the year in respect of the beneficiary as a consequence of the application of section 1029.8.136.1; and

(b) at the time the application referred to in subparagraph *a* is made,

i. the plan is a registered education savings plan,

ii. the education savings incentive agreement is applicable in respect of the plan, and

iii. if the plan contract was entered into before 1 January 1999, it meets, at the end of the year, the registering conditions set out in section 895 that apply to a plan whose contract is entered into after 31 December 1998.

History: 2009, c. 5, s. 480; 2011, c. 1, s. 90.

Deemed residence of trust.

1029.8.129. For the purposes of sections 1029.8.128 and 1029.8.136.1, a trust governed by an education savings plan is deemed to be resident in Québec at the end of a taxation year if, at the end of that year, it is resident in Canada outside Québec and has as a trustee a person who has an establishment in Québec and if, at the time the application for the education savings incentive is made, the education savings incentive agreement that is applicable in respect of the plan provides that

(a) the agreement is subject in all respects to the legislation in force in Québec;

(b) the trustee undertakes to pay to the Minister, on or before the ninetieth day of the year that follows the year for which it is payable, any tax that the trust is required to pay under Part III.15.1;

(c) the trustee recognizes the exclusive jurisdiction of the courts of Québec for any matter relating to this division, the agreement or a tax payable by the trust under Part III.15.1; and

(d) any judgment rendered against the trustee in relation to a matter referred to in paragraph *c* may be executed against the trustee at an establishment of the trustee situated in Québec.

History: 2009, c. 5, s. 480; 2011, c. 1, s. 91.

Unused CES grant room.

1029.8.130. For the purposes of subparagraph iii of subparagraph *a* of the first paragraph of section 1029.8.128, the unused CES grant room for a beneficiary for a particular taxation year is equal to the amount determined by the formula

$$(\$250 \times A) - B.$$

Interpretation.

In the formula in the first paragraph,

(a) *A* is the number of years included in the period that begins on 1 January 2007 and ends on 31 December of the particular taxation year and in which the beneficiary is alive, other than any year at the end of which the beneficiary was not resident in Québec; and

(b) B is the aggregate of all amounts each of which is equal to the amount that would be the amount of the education savings incentive in respect of the beneficiary for any taxation year preceding the particular taxation year if the increase amount were nil.

History: 2009, c. 5, s. 480.

Cumulative limit.

1029.8.131. The amount that a trust may receive on account of an education savings incentive under section 1029.8.128 in respect of a beneficiary for a particular taxation year may not be greater than the amount by which \$3,600 exceeds the aggregate of all amounts each of which is the amount by which the aggregate of all amounts each of which is an amount that a particular trust received on account of an education savings incentive under that section in respect of the beneficiary for a taxation year preceding the particular taxation year exceeds the aggregate of all amounts each of which is a tax that the particular trust is required to pay under Part III.15.1 in respect of the beneficiary for the particular taxation year or a preceding taxation year.

History: 2009, c. 5, s. 480.

Annual limit.

1029.8.132. If, for a taxation year, more than one trust may receive an amount on account of an education savings incentive under section 1029.8.128 in respect of the same beneficiary, the aggregate of all amounts that may be so received by the trusts for the year under that section may not exceed the amount (in sections 1029.8.133 and 1029.8.134 referred to as the “maximum amount of the education savings incentive for the year in respect of the beneficiary”) that could have been received for the year under section 1029.8.128 by a single trust if the aggregate of all amounts each of which is the amount of eligible contributions in respect of that beneficiary for the year had been made to a single registered education savings plan having only that beneficiary.

History: 2009, c. 5, s. 480.

Shared annual limit in respect of same beneficiary.

1029.8.133. If, for a taxation year, more than one trust files with the Minister an application for the education savings incentive, in the manner described in the education savings incentive agreement, within the time provided for in subparagraph i of subparagraph *a* of the second paragraph of section 1029.8.128, in respect of the same beneficiary, and the aggregate of all amounts each of which would be, but for section 1029.8.132, an amount that each of the trusts may receive on account of an education savings incentive under section 1029.8.128 in respect of that beneficiary, exceeds the maximum amount of the education savings incentive for the year in respect of the beneficiary, the following rules apply:

(a) the portion of the maximum amount of the education savings incentive for the year in respect of the beneficiary

that is attributable, if applicable, to the increase amount must be apportioned among each of the trusts that is entitled to receive an amount deemed to be an overpayment of its tax payable on account of the increase amount in respect of the beneficiary for the year in the proportion that, for each trust, the amount of eligible contributions, up to \$500, made for the year in respect of the beneficiary to the registered education savings plan that governs the trust is of the aggregate of all amounts each of which is the amount of eligible contributions, up to \$500, made for the year in respect of the beneficiary to each of the registered education savings plans that governs each of those trusts; and

(b) the portion of the maximum amount of the education savings incentive for the year in respect of the beneficiary that exceeds the increase amount must be apportioned among each of the trusts in the proportion that, for each trust, the amount of the eligible contributions made for the year in respect of the beneficiary to the registered education savings plan that governs the trust is of the aggregate of all amounts each of which is the amount of eligible contributions made for the year in respect of the beneficiary to each of the registered education savings plans that governs each of those trusts.

History: 2009, c. 5, s. 480.

Beneficiary under more than one registered education savings plan.

1029.8.134. If, for a taxation year, a trust files with the Minister an application for the education savings incentive, in the manner described in the education savings incentive agreement, within the time provided for in subparagraph ii of subparagraph *a* of the second paragraph of section 1029.8.128, in respect of a beneficiary under more than one registered education savings plan, the amount that the trust may receive for the year on account of an education savings incentive under that section in respect of that beneficiary may not exceed the aggregate of

(a) if the trust would be entitled to receive, but for this section, an amount deemed to be an overpayment of its tax payable on account of the increase amount, the amount by which the portion of the maximum amount of the education savings incentive for the year in respect of the beneficiary that is attributable, if applicable, to the increase amount, exceeds any amount that another trust having the same beneficiary has received, for the year and in respect of the beneficiary, and that is deemed to be an overpayment of tax payable on account of the increase amount; and

(b) the amount by which the portion of the maximum amount of the education savings incentive for the year in respect of the beneficiary that would have been received in respect of the beneficiary by the trust if the increase amount had been nil, exceeds any portion of the maximum amount of the education savings incentive for the year in respect of the beneficiary that would have been received in respect of the

beneficiary by any other trust having the same beneficiary if the increase amount had been nil.

History: 2009, c. 5, s. 480.

Replacement of beneficiaries.

1029.8.135. If, in a taxation year, a beneficiary under a registered education savings plan (in this section referred to as the “former beneficiary”) is replaced by another beneficiary (in this section referred to as the “new beneficiary”) a contribution made to the plan in the year and after 20 February 2007 by or on behalf of a subscriber under the plan for the former beneficiary is considered to have been made for the new beneficiary if the replacement made in the year is a recognized replacement.

Recognized replacement.

For the purposes of the first paragraph, a recognized replacement means the replacement, at a particular time, of a former beneficiary under a registered education savings plan by a new beneficiary, if

(a) the new beneficiary had not reached 21 years of age before the particular time and was, at that time, the brother or sister of the former beneficiary; or

(b) both beneficiaries were, at the particular time, connected by blood relationship or adoption to an original subscriber under the plan and neither of them had reached 21 years of age before the particular time.

History: 2009, c. 5, s. 480.

Authorized transfer.

1029.8.136. If, in a taxation year, a property held by a trust governed by a registered education savings plan (in this section and section 1029.8.137 referred to as the “transferor plan”) is the subject of an authorized transfer to a trust governed by another registered education savings plan (in this section and section 1029.8.137 referred to as the “transferee plan”), the contributions that were made in the year to the transferor plan before the time of the authorized transfer and after 20 February 2007, are deemed to have been made in the year to the transferee plan by or on behalf of the subscriber under the plan in respect of a particular beneficiary, up to

(a) if the authorized transfer concerned the aggregate of the properties held by the trust governed by the transferor plan and the particular beneficiary is the only beneficiary under the transferee plan at the time of the transfer, the aggregate of the contributions made in the year, after 20 February 2007 and before the time of the transfer, in respect of any beneficiary under the transferor plan;

(b) if the authorized transfer concerned the aggregate of the properties held by the trust governed by the transferor plan and the transferee plan has more than one beneficiary at the

time of the transfer, the particular beneficiary’s share, established according to the apportionment provided for in the transferee plan, of the aggregate of the contributions made in the year, after 20 February 2007 and before the time of the transfer, in respect of any beneficiary under the transferor plan;

(c) if the authorized transfer concerned a portion of the properties held by the trust governed by the transferor plan, other than properties included in a CLB account, and if the particular beneficiary is the only beneficiary under the transferee plan at the time of the transfer, the proportion of the aggregate of the contributions made in the year, after 20 February 2007 and before the time of the transfer, in respect of any beneficiary under the transferor plan, that, at the time of the transfer, the value of the properties transferred is of the value of all the properties held by the trust governed by the transferor plan, other than those included in a CLB account; and

(d) if the authorized transfer concerned a portion of the properties held by the trust governed by the transferor plan, other than properties included in a CLB account, and if the transferee plan has more than one beneficiary at the time of the transfer, the particular beneficiary’s share, established according to the apportionment provided for in the transferee plan, in the proportion of the aggregate of the contributions made in the year, after 20 February 2007 and before the time of the transfer, in respect of any beneficiary under the transferor plan, that, at the time of the transfer, the value of the properties transferred is of the value of all the properties held by the trust governed by the transferor plan, other than those included in a CLB account.

Authorized transfer.

For the purposes of the first paragraph, an authorized transfer means the transfer of properties held by a trust governed by a transferor plan to a trust governed by a transferee plan, if

(a) a beneficiary under the transferee plan

i. was, immediately before the transfer, a beneficiary under the transferor plan, or

ii. was, immediately before the transfer, the brother or sister of a beneficiary under the transferor plan and

(1) the transferee plan is a plan that allows more than one beneficiary at any one time, or

(2) where subparagraph 1 does not apply, the beneficiary under the transferee plan had not attained 21 years of age at the time the plan was entered into;

(b) at the time of the transfer

i. the transferee plan had only one beneficiary or, if it had more than one, every beneficiary was a brother or sister of every other beneficiary, or

ii. no amount deemed to be an overpayment of its tax payable on account of the increase amount had been received by the trust governed by the transferor plan;

(c) the transferee plan meets the conditions for registration set out in section 895 that apply to education savings plans whose contract was entered into after 31 December 1998; and

(d) an education savings incentive agreement is applicable at the time of the transfer in respect of the transferee plan.

Exclusion.

For the purposes of the first paragraph, the contributions made in a year to the transferor plan do not include the contributions that were withdrawn from the plan in the year.

History: 2009, c. 5, s. 480; 2011, c. 1, s. 92; 2012, c. 8, s. 239.

Transfer, in 2011, of contributions to a plan that does not provide for the education savings incentive.

1029.8.136.1. If, in the calendar year 2011, all the property held by a trust that is resident in Québec and that is governed by a registered education savings plan (in this section referred to as the “transferor plan”) is the subject of an authorized transfer, within the meaning of the second paragraph of section 1029.8.136, to a trust governed by another registered education savings plan (in this section referred to as the “transferee plan”), and if the conditions of the second paragraph are met, the contributions that were made in a taxation year preceding the year 2011 and after 20 February 2007 to the transferor plan are deemed to have been made in that taxation year to the transferee plan by or on behalf of the subscriber under the plan in respect of a particular beneficiary, up to

(a) if the particular beneficiary is the only beneficiary under the transferee plan at the time of the authorized transfer, the aggregate of the contributions made in that taxation year and after 20 February 2007, in respect of any beneficiary under the transferor plan; and

(b) if the transferee plan has more than one beneficiary at the time of the authorized transfer, the particular beneficiary’s share, established according to the apportionment provided for in the transferee plan, of the aggregate of the contributions made in that taxation year and after 20 February 2007, in respect of any beneficiary under the transferor plan.

Conditions.

The conditions to which the first paragraph refers are as follows:

(a) the trustee under the transferor plan did not file with the Minister, before 1 January 2011, an application for the education savings incentive in the manner described in an education savings incentive agreement in respect of a

beneficiary under a registered education savings plan in respect of which the trustee under the transferor plan acted as a trustee; and

(b) an education savings incentive agreement has been entered into between the Minister and the trustee under the transferee plan before 1 January 2011 and the trustee under the transferee plan filed with the Minister, before that date, at least one application for the education savings incentive in the manner described in the agreement in respect of a beneficiary under a registered education savings plan in respect of which the trustee under the transferee plan acted as a trustee.

Exclusion.

For the purposes of the first paragraph, the contributions made in a year to the transferor plan do not include the contributions that have been withdrawn from the plan in the year.

History: 2011, c. 1, s. 93.

Accounts debited and credited.

1029.8.137. If, in accordance with section 1029.8.136, there is an authorized transfer of properties held by a trust governed by a transferor plan to a trust governed by a transferee plan, the amount determined under the second paragraph must be, at the time of the authorized transfer, debited from the education savings incentive account of the transferor plan and credited to the education savings incentive account of the transferee plan by the trustee under each of those plans.

Computation.

The amount to which the first paragraph refers is equal to

(a) if the authorized transfer is described in subparagraph *a* or *b* of the first paragraph of section 1029.8.136, the aggregate of the amounts held, at the time of the authorized transfer, in the trust governed by the transferor plan on account of the education savings incentive; and

(b) if the authorized transfer is described in subparagraph *c* or *d* of the first paragraph of section 1029.8.136, the proportion of the aggregate of the amounts held, at the time of the authorized transfer, in the trust governed by the transferor plan on account of the education savings incentive, that, at the time of the transfer, the value of the properties transferred is of the value of all the properties held by the trust governed by the transferor plan, other than those included in a CLB account.

Amount deemed paid.

If an amount is credited to the education savings incentive account of the transferee plan under this section, the amount

is deemed to have been paid into the trust governed by the transferee plan.

History: 2009, c. 5, s. 480.

Withdrawal of contributions.

1029.8.138. If, in a taxation year, a portion of the properties held by a trust governed by a registered education savings plan (in this section referred to as the “transferor plan”), other than properties included in a CLB account, is paid into another trust governed by another registered education savings plan by means of a transfer, the proportion of the aggregate of the contributions made in the year, after 20 February 2007 and before the time of the transfer, in respect of any beneficiary under the transferor plan, that, at the time of the transfer, the value of the properties transferred is of the value of all the properties held by the trust governed by the transferor plan, other than those included in a CLB account, is deemed to have been withdrawn from the transferor plan before the end of the year.

History: 2009, c. 5, s. 480.

Order of withdrawals.

1029.8.139. In a particular taxation year, the withdrawal of contributions made to a registered education savings plan is deemed to be made in the following order:

(a) contributions made in the particular taxation year and, if the particular taxation year is the year 2007, after 20 February 2007, in the order in which they were made;

(b) contributions that were made in a taxation year preceding the particular taxation year and that gave rise to entitlement to the education savings incentive, in the order in which they were made;

(c) contributions that were made after 20 February 2007 in a taxation year preceding the particular taxation year and that did not give rise to entitlement to the education savings incentive, in the order in which they were made; and

(d) contributions made before 21 February 2007.

History: 2009, c. 5, s. 480.

§3. — *Administrative provisions*

Education savings incentive agreement.

1029.8.140. An education savings incentive agreement means a written agreement that must be entered into between the Minister and the trustee under a trust governed by an education savings plan and under which the trustee undertakes, in particular,

(a) to provide the Minister with the information that the Minister requires for the purposes of this division, including the name, address and social insurance number of each beneficiary;

(b) to maintain a record containing the information enabling the determination of any amount relating to the education savings incentive;

(c) to keep an education savings incentive account and to credit to that account any amount received by the trust on account of the education savings incentive;

(d) to allow the Minister access to any information relating to contributions made to the plan after 20 February 2007, withdrawals of contributions, transfers and replacements of beneficiaries made after that date;

(e) in the case of a transfer described in section 1029.8.136, to send to the trustee under the trust governed by the transferee plan the amount of the contributions made to the transferor plan in respect of each of the beneficiaries for the period beginning, as the case may be, on 21 February 2007 if the year of the transfer is the year 2007 or on 1 January of the year of the transfer and ending on the date of the transfer;

(f) to make no apportionment of the education savings incentive and the income arising from it otherwise than among the beneficiaries under the plan;

(g) to make no distribution of the properties held by the trust governed by the plan, unless, immediately after the distribution, the fair market value of those properties is equal to or greater than the aggregate of the balances of the education savings incentive account, the grant account, the CLB account and any account of assistance paid under a designated provincial program, or unless the distribution consists in making an educational assistance payment to a beneficiary under the plan and all of the educational assistance payment is attributable to the education savings incentive, a CES grant and the Canada learning bond;

(h) to report to the Minister the portion of an educational assistance payment made under the plan that is attributable to the education savings incentive; and

(i) to charge no fees relating to the plan in respect of the balance of the education savings incentive account.

History: 2009, c. 5, s. 480; 2011, c. 6, s. 205.

Agreement with promoter.

1029.8.141. For the purposes of an education savings incentive agreement, the Minister shall enter into a written agreement with the promoter of an education savings plan under which the promoter undertakes, in particular,

(a) to provide the plan’s trustee with the information that the Minister requires for the purposes of this division, in particular, the name, address, date of birth, confirmation of the place of residence and social insurance number of each beneficiary under the plan; and

(b) to charge no fees relating to the plan in respect of the balance of the education savings incentive account.

History: 2009, c. 5, s. 480.

Break-down of educational assistance payment.

1029.8.142. If an education savings incentive has been received by a trust under section 1029.8.128, the portion of an educational assistance payment made to a beneficiary under the registered education savings plan that is attributable to the education savings incentive is equal to

(a) if there is accumulated income in the plan at the time the educational assistance payment is made, the lesser of

i. the amount determined by the formula

$$A \times B / (C - D - E), \text{ and}$$

ii. the amount by which \$3,600 exceeds the aggregate of all amounts each of which is an amount determined under subparagraph *a* or *b* in respect of an educational assistance payment made previously to the beneficiary under the plan; or

(b) if there is no accumulated income in the plan at the time the educational assistance payment is made, the lesser of

i. the amount determined by the formula

$$A \times B / (B + F + G + H), \text{ and}$$

ii. the amount by which \$3,600 exceeds the aggregate of all amounts each of which is an amount determined under subparagraph *a* or *b* in respect of an educational assistance payment made previously to the beneficiary under the plan.

Interpretation.

In the formulas in subparagraph i of subparagraphs *a* and *b* of the first paragraph,

(a) *A* is the amount of the educational assistance payment made to the beneficiary under the plan;

(b) *B* is the balance of the plan's education savings incentive account immediately before the educational assistance payment is made;

(c) *C* is the fair market value of the properties held by the trust governed by the plan, immediately before the educational assistance payment is made or, if applicable, on the prior date agreed on in the education savings incentive agreement applicable to the plan;

(d) *D* is the aggregate of the contributions that were made to the plan before the educational assistance payment is made and that have not been withdrawn;

(e) *E* is the total of the balance of each CLB account of the other beneficiaries under the plan, immediately before the educational assistance payment is made;

(f) *F* is the balance of the CLB account of the beneficiary under the plan, immediately before the educational assistance payment is made;

(g) *G* is the balance of the plan's grant account, immediately before the educational assistance payment is made; and

(h) *H* is the aggregate of all amounts paid into the plan under a designated provincial program.

Presumption.

For the purposes of the first paragraph, the portion of an educational assistance payment made to a beneficiary under the plan that is attributable to the education savings incentive is deemed to be equal to zero if

(a) the beneficiary under the plan is not resident in Québec at the time the educational assistance payment is made; or

(b) in the case where the plan allows more than one beneficiary at any one time, the beneficiary under the plan became a beneficiary under the plan after reaching 21 years of age, unless, before reaching that age, the beneficiary was a beneficiary under another registered education savings plan that allowed more than one beneficiary at any one time.

History: 2009, c. 5, s. 480; 2011, c. 6, s. 206.

Education savings incentive.

1029.8.143. If a portion of an educational assistance payment made to a beneficiary under a registered education savings plan is attributable to an education savings incentive, the plan's trustee shall, at the time the educational assistance payment is made, debit the amount determined under section 1029.8.142 from the plan's education savings incentive account.

History: 2009, c. 5, s. 480.

Special tax.

1029.8.144. The trustee under a registered education savings plan shall, at the time of the payment by a trust of a tax under Part III.15.1 in relation to the plan, debit the amount of the payment from the plan's education savings incentive account.

History: 2009, c. 5, s. 480.

Assignment.

1029.8.144.1. Despite any inconsistent provision of any law, a trust governed by a registered education savings plan (in this section referred to as the "transferor plan") may, in a taxation year, assign the right to apply for an amount payable to it under this division for a preceding taxation year to a

trust governed by another registered education savings plan (in this section referred to as the “transferee plan”), if the assignment is made in the course of an authorized transfer, within the meaning of the second paragraph of section 1029.8.136, of the aggregate of the properties held by the trust governed by the transferor plan to the trust governed by the transferee plan.

Limited effect of the assignment.

The assignment is not binding on the State and, as a result, the following rules apply:

- (a) the Minister retains discretion to pay or not to pay the amount to the trust governed by the transferee plan;
- (b) the assignment does not create any liability of the State to the trust governed by the transferee plan; and
- (c) the rights of the trust governed by the transferee plan are subject to the rights conferred on the State by section 31 of the Tax Administration Act (chapter A-6.002) and any right to compensation of which the State may avail itself.

History: 2010, c. 5, s. 167; 2011, c. 1, s. 94; 2010, c. 31, s. 175.

Provisions applicable.

1029.8.145. Unless otherwise provided in this division, this Book applies, with the necessary modifications, to the application referred to in the second paragraph of section 1029.8.128 as if it were a fiscal return filed under Title I.

History: 2009, c. 5, s. 480; 2010, c. 25, s. 184.

DIVISION II.22

CREDIT FOR HOME IMPROVEMENT AND RENOVATION

§1. — *Interpretation and general*

Definitions:

1029.8.146. In this division,

“eligible dwelling”;

“eligible dwelling” of an individual means any of the following dwellings, that is not an excluded dwelling, including an adjoining or incidental structure of the dwelling, built before 1 January 2009 and located in Québec, of which the individual is the owner when the home improvement and renovation expenditures are incurred and that constitutes, at that time, the individual’s principal place of residence:

- (a) an individual house that is detached, semi-detached or a row house;
- (b) a permanently installed manufactured home or mobile home;
- (c) an apartment in an immovable under divided co-ownership; and

- (d) an apartment in a residential duplex or triplex;

“excluded dwelling”;

“excluded dwelling” means a dwelling that, before recognized home improvement and renovation work was carried out, was the subject of

- (a) a notice of expropriation or a notice of intention to expropriate;
- (b) a reserve for public purposes; or
- (c) a prior notice of the exercise of a hypothecary right registered in the registry office or any other procedure calling the individual’s right of ownership of the dwelling into question;

“home improvement and renovation expenditure”;

“home improvement and renovation expenditure” of an individual means an expenditure attributable to the carrying out of recognized home improvement and renovation work provided for in a home renovation agreement entered into in respect of an eligible dwelling of the individual that is

- (a) the cost of labour supplied to carry out the work by the qualified contractor who is a party to the home renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable; or
- (b) the cost of movable property, other than household appliances, that enter into the carrying out of the recognized home improvement and renovation work provided for in the home renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable, if, after the work is carried out, the property

i. has been incorporated with the eligible dwelling, has lost its individuality and ensures the utility of the dwelling, or

ii. has been permanently physically attached or joined to the eligible dwelling, without losing its individuality or being incorporated with the eligible dwelling, and ensures the utility of the dwelling;

“home renovation agreement”;

“home renovation agreement” entered into in respect of an individual’s eligible dwelling means an agreement entered into after 31 December 2008 and before 1 January 2010 between a qualified contractor and the individual or a person who, at the time the agreement is entered into, is either the individual’s spouse or another individual who is the owner of the eligible dwelling, under which the qualified contractor undertakes to carry out recognized home improvement and renovation work in respect of the individual’s eligible dwelling;

“qualified contractor”;

“qualified contractor” in relation to a home renovation agreement entered into in respect of an individual’s eligible dwelling means a person or partnership that meets the following conditions:

- (a) at the time the agreement is entered into, the person or partnership has an establishment in Québec and, if the person

is an individual, is neither the owner of the eligible dwelling nor the spouse of one of the owners of the eligible dwelling; and

(b) at the time the recognized home improvement and renovation work is being carried out and if required for the carrying out of such work, the person or partnership is the holder of the appropriate licence issued under the Building Act (chapter B-1.1) and, if applicable, has paid the security provided for under that Act, unless the work is carried out in respect of an eligible dwelling located in a region not served by a road to which the Act respecting roads (chapter V-9) applies;

“qualified expenditure”;

“qualified expenditure” of an individual, in relation to an eligible dwelling of the individual, means the aggregate of all amounts each of which is a home improvement and renovation expenditure of the individual that is paid, in relation to the eligible dwelling, on or before 30 June 2010 by the individual or the individual’s legal representative, by a person who is the individual’s spouse in the year 2009 or at the time the payment is made, or by any other individual who owns the eligible dwelling at the time the expenditure is incurred;

“recognized home improvement and renovation work”;

“recognized home improvement and renovation work” in respect of an individual’s eligible dwelling means the work, other than work related to installing household appliances or that consists exclusively of repair or maintenance work on the dwelling, that is

(a) refurbishment work done to improve the appearance and functional nature of the dwelling;

(b) reorganization work that consists in altering the interior distribution of the rooms, openings and divisions of the dwelling without increasing the floor space or cubic content;

(c) improvement, conversion or expansion work on the dwelling, including the addition of structures adjoining or incidental to the dwelling; or

(d) work required to restore the land to the condition it was in before the work described in paragraphs a to c was carried out;

“structure”.

“structure” means an ordered assembly of materials placed on or connected to the ground or attached to a dwelling, and intended to be used as a shelter or as support, prop or backing for moving above ground level, but does not include swimming pools, hot tubs, saunas or other similar equipment, or landscaping work on the land such as driveways, walkways, fences, low walls and paving stones used for landscaping.

History: 2010, c. 5, s. 168.

Eligible dwelling.

1029.8.147. For the purposes of the definition of “eligible dwelling” in section 1029.8.146, the following rules apply:

(a) a dwelling that is a manufactured home or a mobile home is considered to be permanently installed only if

i. it is set on permanent foundations,

ii. it is served by a waterworks and sewer system, by an artesian well and a septic tank, or by a combination of these as necessary for the supply of drinking water and the drainage of waste water, and

iii. it is permanently connected to an electrical distribution system;

(b) a dwelling that is an apartment in an immovable under divided co-ownership or an adjoining structure includes only the portion of the apartment or structure that is a private portion; and

(c) if the dwelling is an apartment in a residential duplex or triplex and work is carried out in respect of a portion of the duplex or triplex that serves for the common use of the occupants, that portion is considered to be part of an individual’s dwelling only if each of the apartments in the duplex or triplex is occupied, at the time the work-related expenditures are incurred, as a principal place of residence by an individual who co-owns the duplex or triplex at the time.

History: 2010, c. 5, s. 168; 2011, c. 6, s. 207.

Protection policy for lakeshores, riverbanks, littoral zones and flood plains.

1029.8.148. For the purposes of this division, work carried out in respect of an individual’s eligible dwelling can be considered to be recognized home improvement and renovation work only if it is consistent with the policy of the Government referred to in section 2.1 of the Environment Quality Act (chapter Q-2).

History: 2010, c. 5, s. 168.

Determination of the amount of the qualified expenditure.

1029.8.149. For the purpose of determining an individual’s qualified expenditure, the amount of the expenditure is to be reduced by

(a) an amount that is deductible in computing an individual’s income from a business or property for the year or a subsequent taxation year;

(b) an amount that is included in the capital cost of a property;

(c) an amount that is taken into account in computing

i. an amount that is deducted in computing the tax payable by an individual for the year or a subsequent taxation year under this Part, or

ii. an amount that is deemed to have been paid to the Minister on account of the tax payable by an individual for the year or a subsequent taxation year under this Part, except an amount that is deemed, under this division, to have been paid to the Minister on account of the tax payable by an individual under this Part; and

(d) an amount that is government assistance, non-government assistance, a reimbursement or any other form of assistance, including an indemnity paid under an insurance contract, attributable to the expenditure, that the individual or any other person (other than the person acting as a qualified contractor under the home renovation agreement under which the expenditure is incurred) has received, is entitled to receive or may reasonably expect to receive in any taxation year.

History: 2010, c. 5, s. 168.

§2. — *Credit*

Credit.

1029.8.150. An individual, other than a trust, who is resident in Québec at the end of 31 December 2009 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2009, on account of the individual's tax payable under this Part for that year, an amount equal to the lesser of \$2,500 and the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure in relation to an eligible dwelling of the individual exceeds \$7,500, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information.

Individual who dies or ceases to be resident in Canada.

For the purposes of the first paragraph, an individual who dies or ceases to be resident in Canada in the taxation year 2009 is deemed to be resident in Québec at the end of 31 December 2009 if the individual was resident in Québec immediately before dying or on the last day the individual was resident in Canada.

History: 2010, c. 5, s. 168; 2015, c. 21, s. 491.

More than one individual.

1029.8.151. If more than one individual is deemed to have paid an amount to the Minister under section 1029.8.150 in relation to the same eligible dwelling, the total of the amounts that each of those individuals is deemed to have paid under that section in relation to the eligible dwelling may not exceed the particular amount that only one of those individuals would be deemed to have paid

to the Minister under that section in relation to the eligible dwelling if the dwelling was an eligible dwelling in respect of that individual only.

Determination by the Minister.

If those individuals cannot agree as to what portion of the particular amount each would be deemed to have paid to the Minister under section 1029.8.150, the Minister may determine what portion of that amount is deemed paid by each individual under that section.

History: 2010, c. 5, s. 168.

More than one eligible dwelling.

1029.8.152. If an individual is deemed to have paid an amount to the Minister under section 1029.8.150 in relation to more than one eligible dwelling, the total of the amounts that the individual is deemed to have paid under that section may not exceed \$2,500.

History: 2010, c. 5, s. 168.

DIVISION II.23

CREDIT FOR ECO-FRIENDLY RENOVATION

§1. — *Interpretation and general rules*

Definitions:

1029.8.153. In this division,

“eco-friendly renovation agreement”;

“eco-friendly renovation agreement” entered into in respect of an individual's eligible dwelling means an agreement under which a qualified contractor undertakes to carry out recognized eco-friendly renovation work in respect of the individual's eligible dwelling that is entered into after 7 October 2013 and before 1 November 2014 between the qualified contractor and

(a) the individual;

(b) a person who, at the time the agreement is entered into, is either the individual's spouse, or another individual who is the owner of the eligible dwelling or the other individual's spouse; or

(c) where the individual's eligible dwelling is an apartment in an immovable under divided co-ownership, the syndicate of co-owners of the immovable;

“eco-friendly renovation expenditure”;

“eco-friendly renovation expenditure” means an expenditure that is attributable to the carrying out of recognized eco-friendly renovation work provided for in an eco-friendly renovation agreement and that is

(a) the cost of a service supplied to carry out the work by a qualified contractor who is a party to the eco-friendly renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable;

(b) the cost of a movable property that enters into the carrying out of the recognized eco-friendly renovation work provided for in the eco-friendly renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable, provided that the movable property was acquired from the qualified contractor or a merchant holding a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) and that it complies, where required, with the energy or environmental standards to which the definition of “recognized eco-friendly renovation work” refers in respect of the property; or

(c) the cost of a permit necessary to carry out the recognized eco-friendly renovation work, including the cost of studies carried out to obtain such a permit;

“eligible dwelling”;

“eligible dwelling” of an individual means a dwelling that is located in Québec, other than an excluded dwelling, of which construction is completed before 1 January 2013 and of which the individual is the owner when the eco-friendly renovation expenditures are incurred and that is

(a) an individual house that is detached, semi-detached or a row house, a permanently installed manufactured home or mobile home, an apartment in an immovable under divided co-ownership or a unit in a multiple-unit residential complex that constitutes, at that time, the individual’s principal place of residence; or

(b) is a cottage suitable for year-round occupancy that is normally occupied by the individual;

“excluded dwelling”;

“excluded dwelling” means a dwelling that, before recognized eco-friendly renovation work was carried out, was the subject of

(a) a notice of expropriation or a notice of intention to expropriate;

(b) a reserve for public purposes; or

(c) a prior notice of the exercise of a hypothecary right registered in the registry office or any other procedure calling the individual’s right of ownership of the dwelling into question;

“qualified contractor”;

“qualified contractor” in relation to an eco-friendly renovation agreement entered into in respect of an individual’s eligible dwelling means a person or a partnership meeting the following conditions:

(a) at the time the agreement is entered into, the person or partnership has an establishment in Québec and, if the person is an individual, is neither the owner of the eligible dwelling nor the spouse of one of the owners of the eligible dwelling; and

(b) at the time the recognized eco-friendly renovation work is being carried out and if required for the carrying out of such work, the person or partnership is the holder of the

appropriate licence issued by the Régie du bâtiment du Québec, the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec and, if applicable, has paid the licence security payable under the Building Act (chapter B-1.1);

“qualified expenditure”;

“qualified expenditure” of an individual, in relation to an eligible dwelling of the individual, for a particular taxation year that is either the taxation year 2013 or the taxation year 2014 means the aggregate of all amounts each of which is an eco-friendly renovation expenditure of the individual that is paid, in relation to the eligible dwelling, by the individual or the individual’s legal representative, by a person who is the individual’s spouse at the time the payment is made, or by any other individual who, at the time the expenditure is incurred, owns the eligible dwelling, in either of the following periods:

(a) after 7 October 2013 and before 1 January 2014, where the particular year is the taxation year 2013; or

(b) after 31 December 2013 and before 1 May 2015, where the particular year is the taxation year 2014;

“recognized eco-friendly renovation work”.

“recognized eco-friendly renovation work” in respect of a dwelling means work carried out in compliance with the rules set out in any Act, regulation or by-law of Canada, Québec or a municipality of Québec and the policies that apply according to the type of intervention, including necessary site restoration work, that is

(a) work relating to the insulation of the roof, exterior walls, foundations and exposed floors provided the work is made using insulation materials that do not contain urea formaldehyde or that have low levels of volatile organic compounds certified “GREENGUARD” or “EcoLogo environmental choice”, and that the insulation materials satisfy the following standards:

i. in the case of the insulation of the attic, the insulating value achieved must be R-41 (RSI 7.22) or more,

ii. in the case of the insulation of a flat roof or of a cathedral ceiling, the insulating value achieved must be R-28 (RSI 4.93) or more,

iii. in the case of the insulation of the exterior walls, the increase in the insulating value must be R-3.8 (RSI 0.67) or more,

iv. in the case of the insulation of the basement, including the header area,

(1) for the walls, the insulating value achieved must be R-17 (RSI 3.0) or more, and

(2) for the header area, the insulating value achieved must be R-20 (RSI 3.52) or more,

v. in the case of the insulation of the crawl space, including the header area,

(1) for the exterior walls, including the header area, the insulating value achieved must be R-17 (RSI 3.0) or more, and

(2) for the floor area above the crawl space, the insulating value achieved must be R-24 (RSI 4.23) or more, and

vi. in the case of the insulation of exposed floors, the insulating value achieved must be R-29.5 (RSI 5.20) or more;

(b) work relating to the water-proof sealing of the foundations or the air sealing of the envelope of the dwelling or of a portion of it, such as the walls, doors, windows and skylights;

(c) work relating to the replacement or addition of doors, windows and skylights with “ENERGY STAR” qualified models for the climate zone where the dwelling is located;

(d) work relating to the replacement of a propane or natural gas heating system appliance with one of the following appliances using the same fuel:

i. an “ENERGY STAR” qualified furnace with an Annual Fuel Utilization Efficiency (AFUE) of at least 95% and equipped with a brushless direct current (DC) motor,

ii. a zero-clearance furnace with an AFUE of at least 95%, if the dwelling is a mobile home, and

iii. an “ENERGY STAR” qualified boiler with an AFUE of at least 95%;

(e) work relating to the replacement of an indoor wood-burning system or appliance with one of the following:

i. an indoor wood-burning system or appliance that complies with the CSA-B415.1-10 standard or the 40 CFR Part 60 Subpart AAA standard of the Environmental Protection Agency (EPA) of the United States on wood-burning appliances; if the appliance is not tested by the EPA, it must be certified in accordance with the CSA-B415.1-10 standard,

ii. an indoor pellet-burning appliance, including stoves, furnaces and boilers that burn wood, corn, grain or cherry pits, and

iii. an indoor masonry heater;

(f) work relating to the replacement of a solid fuel-fired outdoor boiler with an outdoor wood-burning heating system that complies with the CAN/CSA-B415.1 standard or the Outdoor Wood-fired Hydronic Heater program of the EPA (OWHH Method 28, phase 1 or 2), provided the capacity of the new system is equal to or smaller than the capacity of the one it replaces;

(g) work relating to the installation of an “ENERGY STAR” qualified central split or ductless mini-split air-source heat pump including an outdoor unit and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the following minimum requirements:

i. it has a Seasonal Energy Efficiency Ratio (SEER) of 14.5,

ii. it has an Energy Efficiency Ratio (EER) of 12.0,

iii. it has a Heating Seasonal Performance Factor (HSPF) of 7.1 for region V, and

iv. it has a heating capacity of 12,000 Btu/h;

(h) work relating to the installation of a geothermal system certified by the Canadian GeoExchange Coalition (CGC); for that purpose, only a CGC-certified business may install the heat pump in accordance with the CAN/CSA-C448 standard and the CGC must certify the system after installation;

(i) work relating to the replacement of the heat pump of an existing geothermal system; for that purpose, only a business certified by the CGC may install the heat pump in accordance with the CAN/CSA-C448 standard;

(j) work relating to the replacement of an oil heating system with a system using propane or natural gas or the replacement of a propane heating system with a system using natural gas, provided the new system uses one of the following heating appliances:

i. an “ENERGY STAR” qualified furnace with an Annual Fuel Utilization Efficiency (AFUE) of at least 95% and equipped with a brushless direct current (DC) motor,

ii. a zero-clearance furnace with an AFUE of at least 95%, if the dwelling is a mobile home, and

iii. an “ENERGY STAR” qualified boiler with an AFUE of at least 95%;

(k) work relating to the replacement of an oil, propane or natural gas heating system with a system using electricity;

(l) work relating to the replacement of an oil, propane, natural gas or electricity heating system with a qualified integrated mechanical system (IMS) that is CSA-P.10-07 certified and achieves the premium performance rating;

(m) work relating to the installation of solar thermal panels that comply with the CAN/CSA-F378 standard;

(n) work relating to the installation of combined photovoltaic-thermal solar panels that comply with the CAN/CSA-C61215-08 and CAN/CSA-F378 standards;

(o) work relating to the replacement of a window air-conditioning unit or central air-conditioning system with an “ENERGY STAR” qualified central split or ductless mini-split air-conditioning system including an outdoor unit

and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the minimum requirements specified in subparagraphs i and ii of paragraph g;

(p) work relating to the replacement of a central air-conditioning system with an “ENERGY STAR” qualified central split or ductless mini-split air-source heat pump including an outdoor unit and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the minimum requirements specified in subparagraphs i to iv of paragraph g;

(q) work relating to the replacement of a propane or natural gas water heater with one of the following appliances using the same fuel:

i. an “ENERGY STAR” qualified instantaneous water heater that has an energy factor (EF) of at least 0.82,

ii. an “ENERGY STAR” qualified instantaneous condensing water heater that has an EF of at least 0.90, or

iii. a condensing storage-type water heater that has a thermal efficiency of 95% or more;

(r) work relating to the replacement of an oil-fired water heater with a water heater using propane or natural gas or the replacement of a propane-fired water heater with a water heater using natural gas, provided the new water heater is described in any of subparagraphs i to iii of paragraph q;

(s) work relating to the replacement of an oil, propane or natural gas water heater with a water heater using electricity;

(t) work relating to the installation of a solar hot water system that provides a minimum energy contribution of seven gigajoules per year and is CAN/CSA-F379 certified, provided such system appears on the CanmetENERGY Performance Directory of Solar Domestic Hot Water Systems;

(u) work relating to the installation of a drain-water heat recovery system;

(v) work relating to the installation of solar thermal panels that comply with the CAN/CSA-F378 standard;

(w) work relating to the installation of combined photovoltaic-thermal solar panels that comply with the CAN/CSA-C61215-08 and CAN/CSA-F378 standards;

(x) work relating to the installation of an “ENERGY STAR” qualified heat recovery ventilator or energy-recovery ventilator certified by the Home Ventilating Institute (HVI) and listed in Section 3 of its product directory (Certified Home Ventilating Products Directory) if, where the installation makes it possible to replace an older ventilator, the new appliance is more efficient than the older one;

(y) work relating to the installation of an underground rain water recovery tank;

(z) work relating to the construction, renovation, modification or rebuilding of a system for the discharge, collection and disposal of waste water, toilet effluents or grey water in accordance with the Regulation respecting waste water disposal systems for isolated dwellings (chapter Q-2, r. 22);

(z.1) work relating to the restoration of a buffer strip in accordance with the requirements of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35);

(z.2) work relating to the decontamination of fuel oil-contaminated soil in accordance with the requirements of the Soil Protection and Contaminated Sites Rehabilitation Policy of the Ministère du Développement durable, de l’Environnement, de la Faune et des Parcs, available on that department’s website;

(z.3) work relating to the construction of a green roof; for that purpose, a green roof is a roof that is fully or partially covered with vegetation and that includes a waterproof membrane, a drainage membrane and a growth medium to protect the roof and host vegetation;

(z.4) work relating to the installation of photovoltaic solar panels that comply with the CAN/CSA-C61215-08 standard; or

(z.5) work relating to the installation of a domestic wind turbine that complies with the CAN/CSA-C61400-2-08 standard.

History: 2015, c. 21, s. 492.

Merchant deemed to hold a registration number.

1029.8.154. For the purposes of paragraph b of the definition of “eco-friendly renovation expenditure” in section 1029.8.153, a merchant is deemed to hold a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) if the merchant is not a registrant for the purposes of that Act because the merchant is a small supplier within the meaning of section 1 of that Act.

History: 2015, c. 21, s. 492.

Clarification in relation to certain dwellings.

1029.8.155. For the purposes of the definition of “eligible dwelling” in section 1029.8.153, the following rules apply:

(a) a dwelling that is a manufactured home or a mobile home is considered to be permanently installed only if

i. it is set on permanent foundations,

ii. it is served by a waterworks and sewer system, by an artesian well and a septic tank, or by a combination of these as necessary for the supply of drinking water and the drainage of waste water, and

iii. it is permanently connected to an electrical distribution system; and

(b) a dwelling is deemed to include the land subjacent to it and such portion of any contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the dwelling.

History: 2015, c. 21, s. 492.

Computation of qualified expenditure.

1029.8.156. For the purpose of determining an individual's qualified expenditure for a taxation year in relation to an eligible dwelling, the following rules apply:

(a) the amount of the qualified expenditure is to be reduced by

i. an amount that is deductible in computing an individual's income from a business or property for the year or any other taxation year,

ii. an amount that is included in the capital cost of depreciable property,

iii. an amount that is taken into account in computing

(1) an amount that is deducted in computing the tax payable by an individual for the year or any other taxation year under this Part, or

(2) an amount that is deemed to have been paid to the Minister on account of the tax payable by an individual for the year or any other taxation year under this Part, except an amount that is deemed, under this division, to have been paid to the Minister on account of the tax payable by an individual under this Part, and

iv. an amount that is government assistance, non-government assistance, a reimbursement or any other form of assistance, including an indemnity paid under an insurance contract, attributable to the expenditure, that the individual or any other person (other than the person acting as a qualified contractor under the eco-friendly renovation agreement under which the expenditure is incurred) has received, is entitled to receive or may reasonably expect to receive in any taxation year, except to the extent that the amount has reduced the individual's qualified expenditure for a preceding taxation year;

(b) an amount paid under an eco-friendly renovation agreement in relation to recognized eco-friendly renovation work carried on by a qualified contractor may be included in the individual's qualified expenditure for a taxation year only if the qualified contractor certifies, in the prescribed form containing prescribed information, that the property used in carrying out the work complies, where required, with the energy or environmental standards to which the definition of

"recognized eco-friendly renovation work" in section 1029.8.153 refers in respect of the property;

(c) where an eco-friendly renovation agreement entered into with a qualified contractor does not deal only with recognized eco-friendly renovation work, an amount paid under the agreement may be included in the individual's qualified expenditure for a taxation year only if the qualified contractor gives the individual a written statement showing the breakdown of the cost of the property and services the qualified contractor supplied among the various types of work carried on under the agreement; and

(d) where the individual's eligible dwelling is an apartment in an immovable under divided co-ownership, the individual's qualified expenditure for a taxation year is deemed to include the individual's share of an expenditure paid by the syndicate of co-owners if

i. it is reasonable to consider that the expenditure would be an eco-friendly renovation expenditure of an individual if the syndicate of co-owners were an individual and the immovable were an eligible dwelling of the individual, and

ii. the syndicate of co-owners notifies the individual in writing of the amount of the individual's share of the expenditure.

History: 2015, c. 21, s. 492.

§2. — Credits

Tax credit for the taxation year 2013.

1029.8.157. An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2013 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2013 on account of the individual's tax payable under this Part for that year, an amount equal to the lesser of \$10,000 and the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2013 in relation to an eligible dwelling of the individual exceeds \$2,500, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information.

Tax credit for the taxation year 2014.

An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2014 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2014 on account of the individual's tax payable under this Part for that year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the

prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2014, in relation to an eligible dwelling of the individual, exceeds the amount by which \$2,500 exceeds the individual's qualified expenditure, in relation to the eligible dwelling, for the taxation year 2013; and

(b) the amount by which \$10,000 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible dwelling, is deemed to have paid to the Minister under the first paragraph, in relation to the eligible dwelling.

Death or cessation of residence.

For the purposes of this section, an individual who dies or ceases to be resident in Canada in a taxation year is deemed to be resident in Québec at the end of 31 December of that year if the individual was resident in Québec immediately before dying or, as the case may be, on the last day the individual was resident in Canada.

History: 2015, c. 21, s. 492.

More than one individual.

1029.8.158. If, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister under section 1029.8.157 in relation to an eligible dwelling that the individuals jointly own, the following rules apply:

(a) if those individuals became owners of the eligible dwelling at the same time, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that only one of those individuals could be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling; and

(b) in any other case, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that the individual from among those individuals who holds the oldest title of ownership or, if more than one of them holds such a title, one of those individuals, could be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling.

Apportionment.

If the individuals cannot agree as to what portion of the particular amount each would, but for this section, be deemed to have paid to the Minister under section

1029.8.157, the Minister may determine what portion of that amount is deemed to be paid to the Minister by each individual under that section.

History: 2015, c. 21, s. 492.

DIVISION II.24 **CREDIT FOR HOME RENOVATION**

§1. — *Interpretation and general rules*

Definitions:

1029.8.159. In this division,

“eligible home”;

“eligible home” of an individual means a dwelling that is located in Québec, other than an excluded home, of which construction is completed before 1 January 2014 and of which the individual is the owner when the home renovation expenditures are incurred, that constitutes, at that time, the individual's principal place of residence and that is

(a) an individual house that is detached, semi-detached or a row house;

(b) a permanently installed manufactured home or mobile home;

(c) an apartment in an immovable under divided co-ownership; or

(d) a unit in a residential duplex or triplex;

“excluded home”;

“excluded home” means a dwelling that, before the beginning of the carrying out of recognized home renovation work, was the subject of

(a) a notice of expropriation or a notice of intention to expropriate;

(b) a reserve for public purposes; or

(c) a prior notice of the exercise of a hypothecary right registered in the registry office or any other procedure calling the individual's right of ownership of the dwelling into question;

“home renovation agreement”;

“home renovation agreement” entered into in respect of an individual's eligible home means an agreement under which a qualified contractor undertakes to carry out recognized home renovation work in respect of the individual's eligible home that is entered into after 24 April 2014 and before 1 July 2015 between the qualified contractor and

(a) the individual; or

(b) a person who, at the time the agreement is entered into, is either the individual's spouse, or another individual who is the owner of the eligible home or the other individual's spouse;

“home renovation expenditure”;

“home renovation expenditure” means an expenditure that is attributable to recognized home renovation work carried out by a qualified contractor pursuant to a home renovation agreement and that is

(a) the cost of a service supplied by the qualified contractor, including the amount of any goods and services tax and Québec sales tax applicable;

(b) the cost of a movable property, other than a household appliance, an electrical appliance or an electronic entertainment device, that is used in the carrying out of recognized home renovation work provided for in the home renovation agreement and described in any of subparagraphs i to xxvii of paragraph a of the definition of “recognized home renovation work”, including the amount of any goods and services tax and Québec sales tax applicable, provided that the movable property was acquired, after 24 April 2014, from the qualified contractor or a merchant holding a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) and that, after the carrying out of the work, the property

i. has been incorporated into the eligible home, has lost its individuality and ensures the utility of the home, or

ii. has been permanently physically attached or joined to the eligible home, without losing its individuality or being incorporated into the eligible home, and ensures the utility of the home;

(c) the cost of a movable property that is used in the carrying out of recognized home renovation work provided for in the home renovation agreement and described in any of paragraphs a, c to z.2, z.4 and z.5 of the definition of “recognized eco-friendly renovation work” in section 1029.8.153, including the amount of any goods and services tax and Québec sales tax applicable, provided that the movable property was acquired, after 24 April 2014, from the qualified contractor or a merchant holding a registration number assigned under the Act respecting the Québec sales tax; or

(d) the cost of a permit necessary to carry out the recognized home renovation work, including the cost of studies carried out to obtain such a permit;

“intergenerational home”;

“intergenerational home” means a single-family home in which an independent dwelling, allowing more than one generation of the same family to live together while preserving their privacy, is built;

“qualified contractor”;

“qualified contractor” in relation to a home renovation agreement entered into in respect of an individual’s eligible home means a person or a partnership meeting the following conditions:

(a) at the time the agreement is entered into, the person or partnership has an establishment in Québec and, if the person

is an individual, is neither the owner of the eligible home nor the spouse of one of the owners of the eligible home; and

(b) at the time the recognized home renovation work provided for in the agreement is being carried out and if required for the carrying out of such work, the person or partnership is the holder of the appropriate licence issued by the Régie du bâtiment du Québec, the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec and, if applicable, has paid the licence security payable under the Building Act (chapter B-1.1);

“qualified expenditure”;

“qualified expenditure” of an individual, in relation to an eligible home of the individual, for a particular taxation year that is either the taxation year 2014 or the taxation year 2015 means the aggregate of all amounts each of which is a home renovation expenditure of the individual that is paid in the particular year, in relation to the eligible home, by the individual or the individual’s legal representative, by a person who is the individual’s spouse at the time the payment is made, or by any other individual who, at the time the expenditure is incurred, owns the eligible home;

“recognized home renovation work”.

“recognized home renovation work” in respect of an eligible home means work, other than work excluded because of section 1029.8.162, that is carried out in compliance with the rules set out in any Act, regulation or by-law of Canada, Québec or a municipality of Québec and the policies that apply according to the type of intervention, including necessary site restoration work, that is,

(a) in respect of a home renovation agreement entered into before 1 November 2014, work relating to

i. the renovation of one or more rooms in the home,

ii. the division of rooms,

iii. the finishing of a basement, attic or an integrated garage or garage adjoining the home,

iv. the adaptation of the interior of the home to the needs of a handicapped person or a person suffering a loss of independence,

v. the replacement of the plumbing or electrical system,

vi. the installation or replacement of a lighting system,

vii. the refurbishing of floors,

viii. the replacement of floor coverings,

ix. the replacement of doors that do not give access to the exterior of the dwelling,

x. the modification of the covering of interior walls and ceilings,

- xi. the replacement, building or modification of an interior stairway,
 - xii. the installation of permanently fixed blinds and shutters,
 - xiii. the installation of an alarm, security or home automation system,
 - xiv. the expansion of the living space of the home, including work relating to the envelope and mechanical systems of the additions to the home, if the property that is used in the carrying out of the work complies, where required, with the energy or environmental standards to which any of paragraphs *a* and *c* to *x* of the definition of “recognized eco-friendly renovation work” in section 1029.8.153 refers in respect of the property,
 - xv. the conversion of a single-dwelling home into an intergenerational home, including work relating to the envelope and mechanical systems of the additions to the home, if the property that is used in the carrying out of the work complies, where required, with the energy or environmental standards to which any of paragraphs *a* and *c* to *x* of the definition of “recognized eco-friendly renovation work” in section 1029.8.153 refers in respect of the property,
 - xvi. the replacement of weeping tiles, sanitary drain, fall pipe or foundation drain,
 - xvii. the repair of the foundation,
 - xviii. the waterproofing of the foundation,
 - xix. the air sealing of the envelope of the home or a portion of it,
 - xx. the pressure cleaning of the exterior siding,
 - xxi. the replacement of the exterior siding,
 - xxii. the painting of the envelope of the home,
 - xxiii. the replacement of swing shutters,
 - xxiv. the replacement of soffits and fascia,
 - xxv. the replacement of the roofing and eavestroughs,
 - xxvi. the repair of a chimney, or
 - xxvii. the replacement of a garage door for a garage integrated into or adjoining the home; or
- (*b*) in respect of a home renovation agreement entered into after 31 October 2014, work described in any of subparagraphs *i* to *xxvii* of paragraph *a* and work described in any of paragraphs *a*, *c* to *z.2*, *z.4* and *z.5* of the definition of “recognized eco-friendly renovation work” in section 1029.8.153.

History: 2015, c. 21, s. 492.

Merchant deemed to hold a registration number.

1029.8.160. For the purposes of paragraphs *b* and *c* of the definition of “home renovation expenditure” in section 1029.8.159, a merchant is deemed to hold a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) if the merchant is not a registrant for the purposes of that Act because the merchant is a small supplier within the meaning of section 1 of that Act.

History: 2015, c. 21, s. 492.

Clarification in relation to certain dwellings.

1029.8.161. For the purposes of the definition of “eligible home” in section 1029.8.159, the following rules apply:

(*a*) a dwelling that is a manufactured home or a mobile home is considered to be permanently installed only if

- i. it is set on permanent foundations,
- ii. it is served by a waterworks and sewer system, by an artesian well and a septic tank, or by a combination of these as necessary for the supply of drinking water and the drainage of waste water, and

iii. it is permanently connected to an electrical distribution system;

(*b*) a dwelling includes the land subjacent to it and such portion of any contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the dwelling;

(*c*) a dwelling does not include a structure adjoining or accessory to the dwelling, other than a garage or carport if

- i. the garage or carport shares, in whole or in part, a wall with the dwelling, or
- ii. the roof of the garage or carport is connected to the dwelling; and

(*d*) a dwelling that is an apartment in an immovable under divided co-ownership includes only the portion of the apartment that consists of a private portion as well as the partitions or walls that are not part of the foundations and main walls of the immovable and that separate a private portion from a common portion or from another private portion.

History: 2015, c. 21, s. 492.

Excluded work – agreement entered into before 1 November 2014.

1029.8.162. In respect of a home renovation agreement entered into before 1 November 2014, the following work is excluded:

(a) work consisting exclusively of annual, periodic or ongoing maintenance or repair work;

(b) work whose sole purpose is to refurbish any part of a dwelling following breakage, malfunction or loss;

(c) work relating to the envelope of the dwelling that is attributable to the insulation of the roof, exterior walls, foundations and exposed floors of the dwelling or to the replacement or addition of doors, windows or skylights, other than a garage door for a garage integrated into or adjoining the dwelling or work described in subparagraph xiv or xv of paragraph *a* of the definition of “recognized home renovation work” in section 1029.8.159;

(d) work relating to the mechanical systems of the dwelling, such as the heating system, air conditioning system, water heating system and ventilation system, other than work described in subparagraph xiv or xv of paragraph *a* of the definition of “recognized home renovation work” in section 1029.8.159; and

(e) work relating to the installation of solar panels.

Excluded work – agreement entered into after 31 October 2014.

In respect of a home renovation agreement entered into after 31 October 2014, work described in subparagraphs *a* and *b* of the first paragraph is excluded.

History: 2015, c. 21, s. 492.

Computation of qualified expenditure.

1029.8.163. For the purpose of determining an individual’s qualified expenditure for a taxation year in relation to an eligible home, the following rules apply:

(a) an amount paid under a home renovation agreement, in relation to recognized home renovation work, may not be included in the individual’s qualified expenditure for a taxation year if it is

i. an amount incurred to acquire property used by the individual before the acquisition under a contract of lease,

ii. an amount that is deductible in computing an individual’s income from a business or property for the year or any other taxation year,

iii. an amount that is included in the capital cost of depreciable property,

iv. an amount that is taken into account in computing

(1) an amount that is deducted in computing the tax payable by an individual for the year or any other taxation year under this Part, or

(2) an amount that is deemed to have been paid to the Minister on account of the tax payable by an individual for

the year or any other taxation year under this Part, except an amount that is deemed, under this division, to have been paid to the Minister on account of the tax payable by an individual under this Part,

v. an amount used to finance the cost of recognized home renovation work, or

vi. an amount attributable to property or services supplied by a person with whom the individual or any of the other owners of the eligible home is not dealing at arm’s length, unless the person holds a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1);

(b) the individual’s qualified expenditure must be reduced by the amount of any government assistance, non-government assistance, reimbursement or other form of assistance, including an indemnity paid under an insurance contract, attributable to the expenditure, that the individual or any other person (other than the person acting as a qualified contractor under the home renovation agreement under which the expenditure is incurred) has received, is entitled to receive or may reasonably expect to receive in any taxation year, except to the extent that the amount has reduced the individual’s qualified expenditure for a preceding taxation year;

(c) an amount paid under a home renovation agreement may be included in the individual’s qualified expenditure only if the qualified contractor carrying out the recognized home renovation work certifies, in the prescribed form referred to in the first or second paragraph of section 1029.8.164, that the property used in carrying out the work complies, where required, with the energy or environmental standards to which the definition of “recognized eco-friendly renovation work” in section 1029.8.153 refers in respect of the property; and

(d) where a home renovation agreement entered into with a qualified contractor does not deal only with recognized home renovation work, an amount paid under the agreement may be included in the individual’s qualified expenditure only if the qualified contractor gives the individual a written statement showing the breakdown of the cost of the property and services the qualified contractor supplied among the various types of work carried on under the agreement.

History: 2015, c. 21, s. 492.

§2. — Credits

Tax credit for the taxation year 2014.

1029.8.164. An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2014 is deemed to have paid to the Minister on the individual’s balance-due day for the individual’s taxation year 2014 on account of the individual’s tax payable under this Part for that year, an amount equal to the lesser of \$2,500 and the amount obtained by multiplying 20% by the amount

by which the individual's qualified expenditure for the taxation year 2014 in relation to an eligible home of the individual exceeds \$3,000, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information.

Tax credit for the taxation year 2015.

An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2015 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2015 on account of the individual's tax payable under this Part for that year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2015, in relation to an eligible home of the individual, exceeds the amount by which \$3,000 exceeds the individual's qualified expenditure, in relation to the eligible home, for the taxation year 2014; and

(b) the amount by which \$2,500 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible home, is deemed to have paid to the Minister under the first paragraph, in relation to the eligible home.

Death or cessation of residence.

For the purposes of this section, an individual who dies or ceases to be resident in Canada in a taxation year is deemed to be resident in Québec at the end of 31 December of that year if the individual was resident in Québec immediately before dying or, as the case may be, on the last day the individual was resident in Canada.

History: 2015, c. 21, s. 492.

Rules applicable in respect of an individual who owns an intergenerational home.

1029.8.165. For the purpose of determining the amount that an individual is deemed to have paid to the Minister for a taxation year under section 1029.8.164 in relation to an eligible home of the individual, for any period between 24 April 2014 and 1 July 2015 throughout which the individual owns an intergenerational home that is the individual's principal place of residence, each independent dwelling built in the home is deemed to be a separate eligible home of the individual, if the individual so elects in the prescribed form referred to in the first or second paragraph of section 1029.8.164.

Validity of co-owner's election.

Where more than one individual owns an intergenerational home and the home is the principal place of residence of those individuals, the election referred to in the first paragraph and made by one of them is deemed to have been made by each of the other owners.

Conversion of a home into an intergenerational home.

For the purposes of this section, an intergenerational home includes a home in respect of which work described in subparagraph xv of paragraph *a* of the definition of "recognized home renovation work" in section 1029.8.159 is carried out.

History: 2015, c. 21, s. 492.

More than one individual.

1029.8.166. Where, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister under section 1029.8.164 in relation to an eligible home they own jointly, the following rules apply:

(a) where the individuals became owners of the eligible home at the same time, the total of the amounts that each of the individuals may be deemed to have paid to the Minister under that section for the year, in relation to the eligible home, may not exceed the particular amount that only one of the individuals could be deemed to have paid to the Minister under that section for the year, in relation to the eligible home, if the individual were the sole owner of the home; and

(b) in any other case, the total of the amounts that each of the individuals may be deemed to have paid to the Minister under that section for the year, in relation to the eligible home, may not exceed the particular amount that the individual who holds the oldest title of ownership or, if several of them hold such a title, one of them, could be deemed to have paid to the Minister under that section for the year, in relation to the eligible home, if the individual were the sole owner of the home.

Apportionment.

If the individuals cannot agree as to what portion of the particular amount each would, but for this section, be deemed to have paid to the Minister under section 1029.8.164, the Minister may determine what portion of that amount is deemed to be paid to the Minister by each individual under that section.

History: 2015, c. 21, s. 492.

DIVISION II.25
CREDIT FOR ECO-FRIENDLY RENOVATION
(RÉNOVERT)

§1. — *Interpretation and general rules*

Definitions:

1029.8.167. In this division,

“eco-friendly renovation agreement”;

“eco-friendly renovation agreement” entered into in respect of an individual’s eligible dwelling means an agreement under which a qualified contractor undertakes to carry out recognized eco-friendly renovation work in respect of the individual’s eligible dwelling that is entered into after 17 March 2016 and before 1 April 2019 between the qualified contractor and

(a) the individual;

(b) a person who, at the time the agreement is entered into, is either the individual’s spouse, or another individual who is the owner of the eligible dwelling or the other individual’s spouse; or

(c) where the individual’s eligible dwelling is an apartment in an immovable under divided co-ownership, the syndicate of co-owners of the immovable;

“eco-friendly renovation expenditure”;

“eco-friendly renovation expenditure” means an expenditure that is attributable to the carrying out of recognized eco-friendly renovation work provided for in an eco-friendly renovation agreement and that is

(a) the cost of a service supplied to carry out the work by a qualified contractor who is a party to the eco-friendly renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable;

(b) the cost of a movable property that enters into the carrying out of the recognized eco-friendly renovation work provided for in the eco-friendly renovation agreement, including the amount of any goods and services tax and Québec sales tax applicable, provided that the movable property was acquired after 17 March 2016 from the qualified contractor or a merchant holding a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) and that it complies, where required, with the energy or environmental standards to which the definition of “recognized eco-friendly renovation work” refers in respect of the property; or

(c) the cost of a permit necessary to carry out the recognized eco-friendly renovation work, including the cost of studies carried out to obtain such a permit;

“eligible dwelling”;

“eligible dwelling” of an individual means a dwelling that is located in Québec, other than an excluded dwelling, of which construction is completed before 1 January 2016 and of

which the individual is the owner when the eco-friendly renovation expenditures are incurred and that is

(a) an individual house that is detached, semi-detached or a row house, a permanently installed manufactured home or mobile home, an apartment in an immovable under divided co-ownership or a unit in a multiple-unit residential complex that constitutes, at that time, the individual’s principal place of residence; or

(b) is a cottage suitable for year-round occupancy that is normally occupied by the individual;

“excluded dwelling”;

“excluded dwelling” means a dwelling that, before recognized eco-friendly renovation work began to be carried out, was the subject of

(a) a notice of expropriation or a notice of intention to expropriate;

(b) a reserve for public purposes; or

(c) a prior notice of the exercise of a hypothecary right registered in the registry office or any other procedure calling the individual’s right of ownership of the dwelling into question;

“intergenerational home”;

“intergenerational home” means a single-family home in which an independent dwelling, allowing more than one generation of the same family to live together while preserving their privacy, is built;

“qualified contractor”;

“qualified contractor” in relation to an eco-friendly renovation agreement entered into in respect of an individual’s eligible dwelling means a person or a partnership meeting the following conditions:

(a) at the time the agreement is entered into, the person or partnership has an establishment in Québec and, if the person is an individual, is neither the owner of the eligible dwelling nor the spouse of one of the owners of the eligible dwelling; and

(b) at the time the recognized eco-friendly renovation work is being carried out and if required for the carrying out of such work, the person or partnership is the holder of the appropriate licence issued by the Régie du bâtiment du Québec, the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec and, if applicable, has paid the licence security payable under the Building Act (chapter B-1.1);

“qualified expenditure”;

“qualified expenditure” of an individual, in relation to an eligible dwelling of the individual, for a particular taxation year that is any of the taxation years 2016 to 2019 means the aggregate of all amounts each of which is an eco-friendly renovation expenditure of the individual that is paid, in relation to the eligible dwelling, by the individual or the individual’s legal representative, by a person who is the individual’s spouse at the time the payment is made, or by

any other individual who, at the time the expenditure is incurred, owns the eligible dwelling, in any of the following periods:

- (a) after 17 March 2016 and before 1 January 2017, where the particular year is the taxation year 2016;
- (b) after 31 December 2016 and before 1 January 2018, where the particular year is the taxation year 2017;
- (c) after 31 December 2017 and before 1 January 2019, where the particular year is the taxation year 2018; or
- (d) after 31 December 2018 and before 1 January 2020, where the particular year is the taxation year 2019;

“recognized eco-friendly renovation work”.

“recognized eco-friendly renovation work” in respect of an eligible dwelling means, subject to the second and third paragraphs, work carried out in compliance with the rules set out in any Act, regulation or by-law of Canada, Québec or a municipality of Québec and the policies that apply according to the type of intervention, including necessary site restoration work, that is

(a) work relating to the insulation of the roof, exterior walls, foundations and exposed floors provided the work is made using insulation materials certified “GREENGUARD” or “EcoLogo”, and that the insulation materials satisfy the following standards:

i. in the case of the insulation of the attic, the insulating value achieved must be R-41.0 (RSI 7.22) or more,

ii. in the case of the insulation of a flat roof or of a cathedral ceiling, the insulating value achieved must be R-28.0 (RSI 4.93) or more,

iii. in the case of the insulation of the exterior walls, the increase in the insulating value must be R-3.8 (RSI 0.67) or more,

iv. in the case of the insulation of the basement, including the header area,

(1) for the walls, the insulating value achieved must be R-17.0 (RSI 3.0) or more, and

(2) for the header area, the insulating value achieved must be R-20.0 (RSI 3.52) or more,

v. in the case of the insulation of the crawl space, including the header area,

(1) for the exterior walls, including the header area, the insulating value achieved must be R-17.0 (RSI 3.0) or more, and

(2) for the floor area above the crawl space, the insulating value achieved must be R-24.0 (RSI 4.23) or more, and

vi. in the case of the insulation of exposed floors, the increase in the insulating value must be R-29.5 (RSI 5.20) or more;

(b) work relating to the water-proof sealing of the foundations or the air sealing of the envelope of the dwelling or of a portion of it, such as the walls, doors, windows and skylights;

(c) work relating to the replacement or addition of doors, windows and skylights with “ENERGY STAR” qualified models for the climate zone where the dwelling is located;

(d) work relating to the installation of a living roof; for that purpose, a living roof is a roof that is fully or partially covered with vegetation and that includes a waterproof membrane, a drainage membrane and a growth medium to protect the roof and host vegetation;

(e) work relating to the replacement of a flat roof or a roof whose slope is less than 2 units vertical in 12 units horizontal (2:12) or 16.7% by a reflective roof; for that purpose, authorized roof coverings include materials that are white, painted white, covered with a reflective coating, covered with a white ballast or whose solar reflectance index (SRI) is at least 78 according to the manufacturer’s specifications;

(f) work relating to the replacement of an indoor wood-burning system or appliance with one of the following:

i. an indoor wood-burning system or appliance that complies with the CSA-B415.1-10 standard or the 40 CFR Part 60 Subpart AAA standard of the Environmental Protection Agency (EPA) of the United States on wood-burning appliances; if the appliance is not tested by the EPA, it must be certified in accordance with the CSA-B415.1-10 standard,

ii. an indoor pellet-burning appliance, including stoves, furnaces and boilers that burn wood, corn, grain or cherry pits, and

iii. an indoor masonry heater;

(g) work relating to the replacement of a solid fuel-fired outdoor boiler with an outdoor wood-burning heating system that complies with the CAN/CSA-B415.1 standard or the Outdoor Wood-fired Hydronic Heater program of the EPA (OWHH Method 28, phase 1 or 2), provided the capacity of the new system is equal to or smaller than the capacity of the one it replaces;

(h) work relating to the installation of an “ENERGY STAR” qualified central split or ductless mini-split air-source heat pump including an outdoor unit and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the following minimum requirements:

i. it has a Seasonal Energy Efficiency Ratio (SEER) of 15.0,

- ii. it has an Energy Efficiency Ratio (EER) of 12.5,
- iii. it has a Heating Seasonal Performance Factor (HSPF) of 7.4 for region V, and
- iv. it has a heating capacity of 12,000 Btu/h;
- (i) work relating to the installation of a geothermal system certified by the Canadian GeoExchange Coalition (CGC); for that purpose, only a CGC-certified business may install the heat pump in accordance with the CAN/CSA-C448-16 standard and the CGC must certify the system after installation;
- (j) work relating to the replacement of the heat pump of an existing geothermal system; for that purpose, only a business certified by the CGC may install the heat pump in accordance with the CAN/CSA-C448-16 standard;
- (k) work relating to the replacement of an oil heating system with a system using propane or natural gas, provided the new system uses one of the following heating appliances:
- i. an “ENERGY STAR” qualified furnace with an Annual Fuel Utilization Efficiency (AFUE) of at least 95% and equipped with a brushless direct current (DC) motor,
- ii. a zero-clearance furnace with an AFUE of at least 95%, if the dwelling is a mobile home, and
- iii. an “ENERGY STAR” qualified boiler with an AFUE of at least 90%;
- (l) work relating to the replacement of an oil, propane or natural gas heating system with a system using electricity;
- (m) work relating to the replacement of an oil, propane, natural gas or electricity heating system with a qualified integrated mechanical system (IMS) that is CSA-P.10-07 certified and achieves the premium performance rating;
- (n) work relating to the installation of solar thermal panels that comply with the CAN/CSA-F378-11 standard;
- (o) work relating to the installation of combined photovoltaic-thermal solar panels that comply with the CAN/CSA-C61215-08 and CAN/CSA-F378-11 standards;
- (p) work relating to the replacement of a window air-conditioning unit or central air-conditioning system with an “ENERGY STAR” qualified central split or ductless mini-split air-conditioning system including an outdoor unit and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the minimum requirements specified in subparagraphs i and ii of paragraph *h*;
- (q) work relating to the replacement of a central air-conditioning system with an “ENERGY STAR” qualified central split or ductless mini-split air-source heat pump including an outdoor unit and at least one indoor head per floor, excluding the basement, that has an Air-Conditioning, Heating, and Refrigeration Institute (AHRI) number and satisfies the minimum requirements specified in subparagraphs i to iv of paragraph *h*;
- (r) work relating to the replacement of an oil-fired water heater with a water heater using propane or natural gas, provided the new water heater is one of the following:
- i. an “ENERGY STAR” qualified instantaneous water heater that has an energy factor (EF) of at least 0.90, or
- ii. a condensing storage-type water heater that has a thermal efficiency of 95% or more;
- (s) work relating to the replacement of an oil, propane or natural gas water heater with a water heater using electricity;
- (t) work relating to the installation of a solar hot water system that provides a minimum energy contribution of 7 gigajoules per year and is CAN/CSA-F379-09 certified, provided such system appears on the CanmetENERGY Performance Directory of Solar Domestic Hot Water Systems;
- (u) work relating to the installation of a drain-water heat recovery system;
- (v) work relating to the installation of solar thermal panels that comply with the CAN/CSA-F378-11 standard;
- (w) work relating to the installation of combined photovoltaic-thermal solar panels that comply with the CAN/CSA-C61215-08 and CAN/CSA-F378-11 standards;
- (x) work relating to the installation of an “ENERGY STAR” qualified heat recovery ventilator or energy-recovery ventilator certified by the Home Ventilating Institute (HVI) and listed in Section 3 of its product directory (Certified Home Ventilating Products Directory) if, where the installation makes it possible to replace an older ventilator, the new appliance is more efficient than the older one;
- (y) work relating to the installation of an underground rain water recovery tank;
- (z) work relating to the construction, renovation, modification or rebuilding of a system for the discharge, collection or disposal of waste water, toilet effluents or grey water in accordance with the Regulation respecting waste water disposal systems for isolated dwellings (chapter Q-2, r. 22);
- (z.1) work relating to the restoration of a buffer strip in accordance with the requirements of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35);
- (z.2) work relating to the decontamination of fuel oil-contaminated soil in accordance with the requirements of the Soil Protection and Contaminated Sites Rehabilitation Policy of the Ministère du Développement durable, de l’Environnement et des Parcs, available on that department’s website;

(z.3) work relating to the installation of photovoltaic solar panels that comply with the CAN/CSA-C61215-08 standard; or

(z.4) work relating to the installation of a domestic wind turbine that complies with the CAN/CSA-C61400-2-08 standard.

Recognized eco-friendly renovation work.

Where the definition of “recognized eco-friendly renovation work” in the first paragraph applies in respect of a dwelling described in paragraph *a* of the definition of “eligible dwelling” in the first paragraph in connection with an agreement entered into after 31 March 2017 and before 1 April 2019, it is to be read without reference to its paragraph *z*.

Recognized eco-friendly renovation work.

Where the definition of “recognized eco-friendly renovation work” in the first paragraph applies in respect of a dwelling described in paragraph *b* of the definition of “eligible dwelling” in the first paragraph, it is to be read without reference to its paragraphs *y* to *z.1*.

History: 2017, c. 1, s. 336; 2017, c. 29, s. 194; 2019, c. 14, s. 413.

Merchant holding a registration number.

1029.8.168. For the purposes of paragraph *b* of the definition of “eco-friendly renovation expenditure” in the first paragraph of section 1029.8.167, a merchant is deemed to hold a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) if the merchant is not a registrant for the purposes of that Act because the merchant is a small supplier within the meaning of section 1 of that Act.

History: 2017, c. 1, s. 336.

Clarification in relation to certain dwellings.

1029.8.169. For the purposes of the definition of “eligible dwelling” in the first paragraph of section 1029.8.167, the following rules apply:

(*a*) a dwelling that is a manufactured home or a mobile home is considered to be permanently installed only if

- i. it is set on permanent foundations,
 - ii. it is served by a waterworks and sewer system, by an artesian well and a septic tank, or by a combination of these as necessary for the supply of drinking water and the drainage of waste water, and
 - iii. it is permanently connected to an electrical distribution system;
- (*b*) a dwelling is deemed to include the land adjacent to it and such portion of any contiguous land as can reasonably be

regarded as contributing to the use and enjoyment of the dwelling; and

(*c*) a dwelling does not include a structure adjoining or accessory to the dwelling, except for a garage

i. that shares, in whole or in part, a wall with the dwelling, or

ii. whose roof is connected to the dwelling.

History: 2017, c. 1, s. 336.

Computation of qualified expenditure.

1029.8.170. For the purpose of determining an individual’s qualified expenditure for a taxation year in relation to an eligible dwelling, the following rules apply:

(*a*) the amount of the qualified expenditure may not include

i. an amount that is used to finance the cost of recognized eco-friendly renovation work,

ii. an amount that is attributable to property or services supplied by a person not dealing at arm’s length with the individual or with any of the other owners of the dwelling, unless the person holds a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1),

iii. an amount that is incurred to acquire property used by the individual before the acquisition under a contract of lease,

iv. an amount that is deductible in computing an individual’s income from a business or property for the year or any other taxation year,

v. an amount that is included in the capital cost of depreciable property, and

vi. an amount that is taken into account in computing

(1) an amount that is deducted in computing the tax payable by an individual for the year or any other taxation year under this Part, or

(2) an amount that is deemed to have been paid to the Minister on account of the tax payable by an individual for the year or any other taxation year under this Part, except an amount that is deemed, under this division, to have been paid to the Minister on account of the tax payable by an individual under this Part;

(*b*) the qualified expenditure must be reduced by the amount of any government assistance, non-government assistance, reimbursement or other form of assistance, including an indemnity paid under an insurance contract, attributable to the expenditure, that the individual or any other person (other than the person acting as a qualified contractor under the

eco-friendly renovation agreement under which the expenditure is incurred) has received, is entitled to receive or may reasonably expect to receive in any taxation year, except to the extent that the amount has reduced the individual's qualified expenditure for a preceding taxation year;

(c) an amount paid under an eco-friendly renovation agreement in relation to recognized eco-friendly renovation work carried on by a qualified contractor may be included in the individual's qualified expenditure only if the qualified contractor certifies, in the prescribed form containing prescribed information, that the property used in carrying out the work complies, where required, with the energy or environmental standards to which the definition of "recognized eco-friendly renovation work" in the first paragraph of section 1029.8.167 refers in respect of the property;

(d) where an eco-friendly renovation agreement entered into with a qualified contractor does not deal only with recognized eco-friendly renovation work, an amount paid under the agreement may be included in the individual's qualified expenditure only if the qualified contractor gives the individual a written statement showing the breakdown of the cost of the property and services the qualified contractor supplied among the various types of work carried on under the agreement; and

(e) where the individual's eligible dwelling is an apartment in an immovable under divided co-ownership, the individual's qualified expenditure is deemed to include the individual's share of an expenditure paid by the syndicate of co-owners if

- i. it is reasonable to consider that the expenditure would be an eco-friendly renovation expenditure of an individual if the syndicate of co-owners were an individual and the immovable were an eligible dwelling of the individual, and
- ii. the syndicate of co-owners provided the individual, in the prescribed form, with information relating to the work and the amount of the individual's share of the expenditure.

History: 2017, c. 1, s. 336.

§2. — Credits

Tax credit for the taxation year 2016.

1029.8.171. An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2016 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2016 on account of the individual's tax payable under this Part for that year an amount equal to the lesser of \$10,000 and the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2016 in relation to an eligible dwelling of the individual exceeds \$2,500, if the individual files with the Minister, together with the fiscal return the individual is

required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information.

Tax credit for the taxation year 2017.

An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2017 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2017 on account of the individual's tax payable under this Part for that year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2017, in relation to an eligible dwelling of the individual, exceeds the amount by which \$2,500 exceeds the individual's qualified expenditure, in relation to the eligible dwelling, for the taxation year 2016; and

(b) the amount by which \$10,000 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible dwelling, is deemed to have paid to the Minister under the first paragraph, in relation to the eligible dwelling.

Tax credit for the taxation year 2018.

An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2018 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2018 on account of the individual's tax payable under this Part for that year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2018, in relation to an eligible dwelling of the individual, exceeds the amount by which \$2,500 exceeds the aggregate of all amounts each of which is the individual's qualified expenditure, in relation to the eligible dwelling, for each of the taxation years 2016 and 2017; and

(b) the amount by which \$10,000 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible dwelling, is deemed to have paid to the Minister under the first or second paragraph, in relation to the eligible dwelling.

Tax credit for the taxation year 2019.

An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2019 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2019 on account of the individual's tax payable under this Part for that year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2019, in relation to an eligible dwelling of the individual, exceeds the amount by which \$2,500 exceeds the aggregate of all amounts each of which is the individual's qualified expenditure, in relation to the eligible dwelling, for each of the taxation years 2016, 2017 and 2018; and

(b) the amount by which \$10,000 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible dwelling, is deemed to have paid to the Minister under any of the first, second and third paragraphs, in relation to the eligible dwelling.

Death or cessation of residence.

For the purposes of this section, an individual who dies or ceases to be resident in Canada in a taxation year is deemed to be resident in Québec at the end of 31 December of that year if the individual was resident in Québec immediately before dying or, as the case may be, on the last day the individual was resident in Canada.

History: 2017, c. 1, s. 336; 2017, c. 29, s. 195; 2019, c. 14, s. 414.

Owner of an intergenerational home.

1029.8.172. For the purpose of determining the amount that an individual is deemed to have paid to the Minister for a taxation year under section 1029.8.171 in relation to an eligible dwelling of the individual, for any period between 17 March 2016 and 1 April 2019 throughout which the individual owns an intergenerational home that is the individual's principal place of residence, each independent dwelling built in the home is deemed to be a separate eligible dwelling of the individual, if the individual so elects in the prescribed form referred to in any of the first, second, third and fourth paragraphs of section 1029.8.171.

Validity of election.

Where more than one individual owns an intergenerational home and the home is the principal place of residence of those individuals, the election referred to in the first paragraph and made by one of them is deemed to have been made by each of the other owners.

History: 2017, c. 1, s. 336; 2017, c. 29, s. 196; 2019, c. 14, s. 415.

More than one owner of an eligible dwelling.

1029.8.173. If, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister under section 1029.8.171 in relation to an eligible dwelling that the individuals jointly own, the following rules apply:

(a) if those individuals became owners of the eligible dwelling at the same time, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that only one of those individuals could be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling; and

(b) in any other case, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that the individual from among those individuals who holds the oldest title of ownership or, if more than one of them holds such a title, one of those individuals, could be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling.

Apportionment.

If the individuals cannot agree as to what portion of the particular amount each would, but for this section, be deemed to have paid to the Minister under section 1029.8.171, the Minister may determine what portion of that amount is deemed to be paid to the Minister by each individual under that section.

History: 2017, c. 1, s. 336.

DIVISION II.26**CREDIT FOR THE REPAIR OF SEPTIC SYSTEMS****§1. — Interpretation and general rules****Definitions:**

1029.8.174. In this division,

“eligible dwelling”;

“eligible dwelling” of an individual means a dwelling that is located in Québec, other than an excluded dwelling, of which construction is completed before 1 January 2017, of which the individual is the owner when the septic system repair expenditures are incurred, that is an isolated dwelling in respect of which section 2 of the Regulation respecting waste water disposal systems for isolated dwellings applies or that is part of such a dwelling, and that is

(a) the individual's principal place of residence; or

(b) a cottage suitable for year-round occupancy that is normally occupied by the individual;

“excluded dwelling”;

“excluded dwelling” means a dwelling that, before recognized work began to be carried out, was the subject of

(a) a notice of expropriation or a notice of intention to expropriate;

(b) a reserve for public purposes; or

(c) a prior notice of the exercise of a hypothecary right registered in the registry office or any other procedure calling the individual’s right of ownership of the dwelling into question;

“qualified contractor”;

“qualified contractor” in relation to a service agreement entered into in respect of an individual’s eligible dwelling means a person or a partnership meeting the following conditions:

(a) at the time the service agreement is entered into, the person or partnership has an establishment in Québec and is neither the owner of the eligible dwelling nor the spouse of one of the owners of the eligible dwelling; and

(b) at the time the recognized work is being carried out and if required for the carrying out of such work, the person or partnership is the holder of the appropriate licence issued by the Régie du bâtiment du Québec and, if applicable, has paid the licence security payable under the Building Act (chapter B-1.1);

“qualified expenditure”;

“qualified expenditure” of an individual, in relation to an eligible dwelling of the individual, for a particular taxation year that is subsequent to the taxation year 2016 and precedes the taxation year 2023, means the aggregate of all amounts each of which is a septic system repair expenditure that is paid, in relation to the eligible dwelling, by the individual or the individual’s legal representative, by a person who is the individual’s spouse at the time the payment is made, or by any other individual who, at the time the expenditure is incurred, owns the eligible dwelling, in either of the following periods:

(a) after 31 March 2017 and before 1 January 2018, where the particular year is the taxation year 2017; or

(b) after 31 December of the year that precedes the particular year and on or before 31 December of the particular year, where the particular year is subsequent to the taxation year 2017 and precedes the taxation year 2023;

“recognized work”;

“recognized work” in respect of an eligible dwelling means work that is carried out in compliance with the rules set out in Québec legislation and regulations and in the applicable municipal by-laws, including necessary site restoration work, and that is work relating to the construction, renovation, modification, rebuilding, relocation or enlargement of a system for the discharge, collection or disposal of waste

water, toilet effluents or grey water serving an eligible dwelling;

“septic system repair expenditure”;

“septic system repair expenditure” means an expenditure that is attributable to the carrying out of recognized work provided for in a service agreement and that is

(a) the cost of a service supplied to carry out the work by a qualified contractor who is a party to the service agreement, including the amount of any goods and services tax and Québec sales tax applicable;

(b) the cost of a movable property that enters into the carrying out of recognized work provided for in the service agreement, including the amount of any goods and services tax and Québec sales tax applicable, provided that the movable property was acquired after 31 March 2017 from the qualified contractor or a merchant holding a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) and that it complies, where required, with the standards prescribed by the Regulation respecting waste water disposal systems for isolated dwellings; or

(c) the cost of a permit necessary to carry out recognized work, including the cost of studies carried out to obtain such a permit;

“service agreement”.

“service agreement” entered into in respect of an individual’s eligible dwelling means an agreement under which a qualified contractor undertakes to carry out recognized work in respect of the individual’s eligible dwelling that is entered into after 31 March 2017 and before 1 April 2022 between the qualified contractor and

(a) the individual;

(b) a person who, at the time the agreement is entered into, is the individual’s spouse, or another individual who is the owner of the eligible dwelling or that other individual’s spouse; or

(c) where the individual’s eligible dwelling is an apartment in an immovable under divided co-ownership, the syndicate of co-owners of the immovable.

History: 2017, c. 29, s. 197; 2020, c. 16, s. 161.

Merchant holding a registration number.

1029.8.175. For the purposes of paragraph *b* of the definition of “septic system repair expenditure” in section 1029.8.174, a merchant is deemed to hold a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1) if the merchant is not a registrant for the purposes of that Act because the merchant is a small supplier within the meaning of section 1 of that Act.

History: 2017, c. 29, s. 197.

Computation of qualified expenditure.

1029.8.176. For the purpose of determining an individual’s qualified expenditure for a particular taxation

year in relation to an eligible dwelling, the following rules apply:

(a) the amount of the qualified expenditure may not include

i. an amount that is used to finance the cost of recognized work,

ii. an amount that is attributable to property or services supplied by a person not dealing at arm's length with the individual or with any of the other owners of the dwelling, unless the person holds a registration number assigned under the Act respecting the Québec sales tax (chapter T-0.1),

iii. an amount that is deductible in computing an individual's income from a business or property for the year or any other taxation year, and

iv. an amount that is included in the capital cost of depreciable property;

(b) the qualified expenditure must be reduced by the portion of the amount of any government assistance that exceeds \$2,500, the amount of any non-government assistance, reimbursement or other form of assistance, including an indemnity paid under an insurance contract, attributable to the expenditure, that the individual or any other person (other than the person acting as a qualified contractor under the service agreement under which the expenditure is incurred) has received, is entitled to receive or may reasonably expect to receive in any taxation year, except to the extent that the amount has reduced the individual's qualified expenditure for a preceding taxation year;

(c) an amount paid under a service agreement in relation to recognized work carried on by a qualified contractor may be included in the individual's qualified expenditure only if the qualified contractor certifies, in the prescribed form containing prescribed information, that the property used in carrying out the work complies, where required, with the standards prescribed by the Regulation respecting waste water disposal systems for isolated dwellings (chapter Q-2, r. 22);

(d) where a service agreement entered into with a qualified contractor does not deal only with recognized work, an amount paid under the agreement may be included in the individual's qualified expenditure only if the qualified contractor gives the individual a written statement showing the breakdown of the cost of the property and services the qualified contractor supplied among the various types of work carried on under the agreement; and

(e) where the individual's eligible dwelling is an apartment in an immovable under divided co-ownership, the individual's qualified expenditure is deemed to include the individual's share of an expenditure paid by the syndicate of co-owners if

i. it is reasonable to consider that the expenditure would be a septic system repair expenditure of an individual if the syndicate of co-owners were an individual and the immovable were an eligible dwelling of the individual, and

ii. the syndicate of co-owners provided the individual, in the prescribed form, with information relating to the work and the amount of the individual's share of the expenditure.

History: 2017, c. 29, s. 197.

§2. — Credits

Tax credit for the taxation year 2017.

1029.8.177. An individual, other than a trust, who is resident in Québec at the end of 31 December of the taxation year 2017 is deemed to have paid to the Minister on the individual's balance-due day for the individual's taxation year 2017 on account of the individual's tax payable under this Part for that year an amount equal to the lesser of \$5,500 and the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the taxation year 2017 in relation to an eligible dwelling of the individual exceeds \$2,500, if the individual files with the Minister, together with the fiscal return the individual is required to file for the year, or would be required to so file if tax were payable for the year, the prescribed form containing prescribed information.

Tax credit for the taxation years 2018 to 2022.

An individual, other than a trust, who is resident in Québec at the end of 31 December of a particular taxation year that is subsequent to the taxation year 2017 and precedes the taxation year 2023 is deemed to have paid to the Minister on the individual's balance-due day for the particular year on account of the individual's tax payable under this Part for the particular year, if the individual files with the Minister, together with the fiscal return the individual is required to file for the particular year, or would be required to so file if tax were payable for the particular year, the prescribed form containing prescribed information, an amount equal to the lesser of

(a) the amount obtained by multiplying 20% by the amount by which the individual's qualified expenditure for the particular year, in relation to an eligible dwelling of the individual, exceeds the amount by which \$2,500 exceeds the aggregate of all amounts each of which is the individual's qualified expenditure, in relation to the eligible dwelling, for a taxation year preceding the particular year; and

(b) the amount by which \$5,500 exceeds the aggregate of all amounts each of which is an amount that the individual, or a person together with whom the individual owns the eligible dwelling, is deemed to have paid to the Minister under this section for a taxation year preceding the particular year.

Special rule.

For the purpose of determining the amount that an individual is deemed to have paid to the Minister for a particular taxation year under the first or second paragraph, in relation to an eligible dwelling the individual owns that is situated in an immovable under divided co-ownership or in another type of immovable that comprises more than one dwelling, the amounts of \$2,500 and \$5,500 mentioned in the first and second paragraphs must respectively be replaced by

(a) where the eligible dwelling is situated in an immovable under divided co-ownership, the amounts obtained by multiplying \$2,500 and \$5,500, as the case may be, by the individual's share of the common expenses of the immovable; and

(b) where the eligible dwelling is situated in another type of immovable that comprises more than one dwelling, the amounts obtained by multiplying \$2,500 and \$5,500, as the case may be, by the proportion that the area of the individual's eligible dwelling is of the total living area of the immovable.

Death or cessation of residence.

For the purposes of this section, an individual who dies or ceases to be resident in Canada in a taxation year is deemed to be resident in Québec at the end of 31 December of that year if the individual was resident in Québec immediately before dying or, as the case may be, on the last day the individual was resident in Canada.

History: 2017, c. 29, s. 197.

More than one owner of an eligible dwelling.

1029.8.178. If, for a taxation year, more than one individual could, but for this section, be deemed to have paid an amount to the Minister under section 1029.8.177 in relation to an eligible dwelling that the individuals jointly own, the following rules apply:

(a) if those individuals became owners of the eligible dwelling at the same time, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that only one of those individuals could be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling; and

(b) in any other case, the total of the amounts that each of those individuals may be deemed to have paid to the Minister under that section for the year in relation to the eligible dwelling may not exceed the particular amount that the individual from among those individuals who holds the oldest title of ownership or, if more than one of them holds such a title, one of those individuals, could be deemed to have paid to the Minister under that section for the year in

relation to the eligible dwelling if that individual were the sole owner of the eligible dwelling.

Apportionment.

If the individuals cannot agree as to what portion of the particular amount each would, but for this section, be deemed to have paid to the Minister under section 1029.8.177, the Minister may determine what portion of that amount is deemed to be paid to the Minister by each individual under that section.

History: 2017, c. 29, s. 197.

DIVISION II.27**CREDIT FOR THE RESTORATION OF A SECONDARY RESIDENCE****§1. — Interpretation and general rules****DIVISION III****CREDITS FOR HOLDERS OF A TAXI DRIVER'S OR OWNER'S PERMIT****§1. — Interpretation****Definitions:**

1029.9. In this division,

“holder”;

“holder” means

(a) in respect of a taxi driver's permit, the person in whose name the taxi driver's permit is issued; and

(b) in respect of a taxi owner's permit, the person in whose name the taxi owner's permit is issued or, where such a permit is issued in the name of two or more persons, the person among them whom they designate;

“taxi driver's permit”;

“taxi driver's permit” means such a permit referred to in the Act respecting transportation services by taxi (chapter S-6.01);

“taxi owner's permit”.

“taxi owner's permit” means such a permit referred to in the Act respecting transportation services by taxi, including a limousine permit or other specialized taxi permit referred to in that Act.

History: 1984, c. 35, s. 29; 1985, c. 25, s. 151; 1986, c. 15, s. 180; 1986, c. 72, s. 13; 1987, c. 67, s. 185; 1992, c. 1, s. 178; 1993, c. 19, s. 257; 1995, c. 63, s. 210 [amended by 1997, c. 14, s. 377]; 2003, c. 9, s. 365.

§2. — Credits**Holder of a taxi driver's permit.**

1029.9.1. A taxpayer who is resident in Québec at the end of 31 December of a taxation year, who is a taxpayer referred

to in the second paragraph and who files the prescribed form containing the prescribed information along with the fiscal return the taxpayer is required to file for the year under section 1000, or would be so required to file if the taxpayer had tax payable for the year under this Part, is deemed to have paid to the Minister, on the taxpayer's balance-due day for the year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to the lesser of the amount established in respect of the taxpayer for that year under section 1029.9.3 and \$584.

Interpretation.

The taxpayer to whom the first paragraph refers is

(a) a taxpayer who, at any time in a taxation year, is the holder of a taxi driver's permit and is not the holder of a taxi owner's permit on 31 December of that year; or

(b) a taxpayer who, at any time in a taxation year, is the holder of a taxi driver's permit and the holder of one or more taxi owner's permits on 31 December of that taxation year, and has not assumed all or almost all of the fuel cost of bringing into service any motor vehicle attached to at least one of the taxi owner's permits of which the taxpayer is the holder.

Application.

For the purposes of this section, a taxpayer who was resident in Québec immediately before the taxpayer's death is deemed to be resident in Québec at the end of 31 December of the year in which the taxpayer died.

History: 2003, c. 9, s. 366; 2019, c. 14, s. 417.

Tax credit increase for the taxation year 2017 or 2018.

1029.9.11. The amount that a taxpayer is deemed to have paid to the Minister under section 1029.9.1 on account of the taxpayer's tax payable for the taxation year 2017 or 2018 is to be increased by the amount determined for that taxation year by the formula

$$(A/B) \times \$500.$$

Formula elements.

(a) A is the amount that the taxpayer is deemed to have paid to the Minister under section 1029.9.1 on account of the taxpayer's tax payable for the taxation year, determined without reference to this section; and

(b) B is

i. \$574, for the taxation year 2018, or

ii. \$569, for the taxation year 2017.

History: 2019, c. 14, s. 418.

Holder of a taxi owner's permit.

1029.9.2. A taxpayer who, on 31 December of a calendar year in a taxation year, is the holder of one or more taxi owner's permits in force, assumed in that taxation year all or almost all of the fuel cost of bringing into service any motor vehicle attached to each of those permits, and files the prescribed form containing the prescribed information along with the fiscal return the taxpayer is required to file under section 1000 for that taxation year, or would be so required to file if the taxpayer had tax payable for that taxation year under this Part, is deemed, subject to the second paragraph, to have paid to the Minister, on the taxpayer's balance-due day for that taxation year, on account of the taxpayer's tax payable for that taxation year under this Part, an amount equal to the lesser of the amount established in respect of the taxpayer for that taxation year under section 1029.9.3 and an amount equal to the product obtained by multiplying \$584 by the number of such permits of which the taxpayer is the holder on 31 December of the calendar year.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

History: 2003, c. 9, s. 366; 2019, c. 14, s. 419.

Partnership holder of taxi owner's permits.

1029.9.2.1. Where, on 31 December of a calendar year in a fiscal period, a partnership is the holder of one or more taxi owner's permits in force and that partnership assumed in the fiscal period all or almost all of the fuel cost of bringing into service any motor vehicle attached to each of those permits, each taxpayer who is a member of the partnership at the end of the fiscal period and who encloses the prescribed form containing prescribed information with the fiscal return the

taxpayer is required to file under section 1000 for the taxpayer's taxation year in which the fiscal period ends or would be required to so file if the taxpayer had tax payable for that taxation year under this Part, is deemed, subject to the second paragraph and section 1029.9.2.2, to have paid to the Minister, on the taxpayer's balance-due day for the year, on account of the taxpayer's tax payable for the year under this Part, an amount equal to the taxpayer's share of the lesser of the amount determined in respect of the partnership for the fiscal period under section 1029.9.3.1 and an amount equal to the product obtained by multiplying \$584 by the number of such permits of which the partnership is the holder on 31 December of the calendar year in the fiscal period.

Computation of payments.

For the purpose of computing the payments that a taxpayer is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, on account of the aggregate of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

Taxpayer's share.

For the purposes of the first paragraph, a taxpayer's share of an amount for a fiscal period of a partnership is equal to the agreed proportion of that amount in respect of the taxpayer for that fiscal period.

History: 2019, c. 14, s. 420.

Restriction.

1029.9.2.2. No amount may be deemed to have been paid to the Minister under section 1029.9.2.1 by a taxpayer for a particular taxation year in which a fiscal period of a partnership ends where the taxpayer is

(a) an individual deemed, under section 1029.9.1, to have paid an amount to the Minister on account of the individual's tax payable for the particular year or, where the fiscal period

ends before 31 December of the particular year, for the preceding taxation year;

(b) an individual who is not resident in Québec at the end of the particular year;

(c) a corporation that, at any time in the particular year, does not have an establishment in Québec; or

(d) a person exempt from tax under Book VIII for the particular year.

Rules of application.

For the purposes of subparagraph *b* of the first paragraph, an individual who dies or ceases to be resident in Canada in a taxation year is deemed to be resident in Québec at the end of that year if the individual was resident in Québec immediately before dying or on the last day the individual was resident in Canada, as the case may be.

History: 2019, c. 14, s. 420.

Amount.

1029.9.3. The amount to which the first paragraph of sections 1029.9.1 and 1029.9.2 refers in respect of a taxpayer for a taxation year is equal to 2% of the aggregate of

(a) the taxpayer's income for the year from employment as a taxi driver, computed before any deduction under Chapter III of Title II of Book III;

(b) the taxpayer's gross revenue for the year from the taxpayer's business of providing transportation by taxi; and

(c) the taxpayer's gross revenue for the year from the leasing of any motor vehicle attached to a taxi owner's permit of which the taxpayer is the holder.

History: 2003, c. 9, s. 366; 2019, c. 14, s. 421.

Amount.

1029.9.3.1. The amount to which the first paragraph of section 1029.9.2.1 refers in respect of a partnership for a fiscal period is equal to 2% of the aggregate of

(a) the partnership's gross revenue for the fiscal period from its business of providing transportation by taxi; and

(b) the partnership's gross revenue for the fiscal period from the leasing of any motor vehicle attached to a taxi owner's permit of which the partnership is the holder.

History: 2019, c. 14, s. 422.

Interposed partnership.

1029.9.3.2. For the purposes of section 1029.9.2.1, the following rules must be taken into consideration in respect of a taxpayer if, for a given fiscal period of a given partnership,

one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and the given partnership:

(a) the taxpayer is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the taxpayer’s taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer is directly a member, if

i. the particular fiscal period is that which ends in the fiscal period (in this section referred to as the “interposed fiscal period”) of the interposed partnership that is a member of the particular partnership at the end of that particular fiscal period, and

ii. the taxpayer is a member, or deemed to be a member under this paragraph, of the interposed partnership described in subparagraph i at the end of the interposed partnership’s interposed fiscal period; and

(b) for the purpose of determining the taxpayer’s share in an amount in respect of the given partnership for the given fiscal period, the agreed proportion in respect of the taxpayer for that fiscal period of the given partnership is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the taxpayer for the interposed fiscal period of the interposed partnership of which the taxpayer is directly a member, by

i. if there is only one interposed partnership, the agreed proportion in respect of the interposed partnership for the given partnership’s given fiscal period, or

ii. if there is more than one interposed partnership, the result obtained by multiplying together all proportions each of which is the agreed proportion in respect of an interposed partnership for the particular fiscal period of the particular partnership referred to in paragraph a of which the interposed partnership is a member at the end of that particular fiscal period.

History: 2019, c. 14, s. 422.

Section 1029.9.3.2 not applicable.

1029.9.3.3. Section 1029.9.3.2 does not apply in respect of a taxpayer, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the taxpayer and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the taxpayer to be deemed to have paid to the Minister for a taxation year, under section 1029.9.2.1, an amount greater than the amount that would have been so deemed to have been paid to the Minister for that taxation year, but for that interposition.

History: 2019, c. 14, s. 422.

Credit deemed not to be assistance.

1029.9.4. For the purposes of this Part and the regulations, the amount that a taxpayer is deemed to have paid to the Minister for a taxation year under any of sections 1029.9.1 to 1029.9.2.1 is deemed not to be an amount of assistance or an inducement received by the taxpayer from a government.

History: 2003, c. 9, s. 366; 2019, c. 14, s. 423.

1029.10. *(Repealed).*

History: 1989, c. 5, s. 214; 2003, c. 9, s. 367.

1029.11. *(Repealed).*

History: 1988, c. 64, s. 587; 1989, c. 5, s. 214; 2003, c. 9, s. 367.

1029.12. *(Repealed).*

History: 1989, c. 5, s. 214; 2003, c. 9, s. 367.

1029.13. *(Repealed).*

History: 1989, c. 5, s. 214; 2003, c. 9, s. 367.

1029.14. *(Repealed).*

History: 1992, c. 1, s. 179; 1997, c. 14, s. 245; 2003, c. 9, s. 367.

1029.15. *(Repealed).*

History: 1992, c. 1, s. 179; 2003, c. 9, s. 367.

1029.16. *(Repealed).*

History: 1992, c. 1, s. 179; 2003, c. 9, s. 367.

1029.17. *(Repealed).*

History: 1992, c. 1, s. 179; 2003, c. 9, s. 367.

1029.18. *(Repealed).*

History: 1992, c. 1, s. 179; 2003, c. 9, s. 367.

1029.19. *(Repealed).*

History: 1992, c. 1, s. 179; 2003, c. 9, s. 367.

CHAPTER IV

PAYMENT FOLLOWING ASSESSMENT

1030. *(Repealed).*

History: 1972, c. 23, s. 758; 1983, c. 20, s. 5; 1983, c. 47, s. 5; 1983, c. 49, s. 54; 1986, c. 19, s. 190; 1990, c. 58, s. 1; 1995, c. 1, s. 163.

1031. *(Repealed).*

History: 1973, c. 17, s. 117; 1974, c. 18, s. 33; 1995, c. 1, s. 164; 1995, c. 49, s. 229; 1997, c. 31, s. 120; 2010, c. 31, s. 175; 2015, c. 36, s. 147.

Election by a trust.

1031.1. Notwithstanding any other provision of a fiscal law, where a day determined under any of subparagraphs *a* to *c* of the first paragraph of section 653 in respect of a trust occurs in a taxation year of the trust and the trust is required to pay tax under this Part for that year the amount of which exceeds the amount that, but for those subparagraphs, would otherwise be payable, the trust may, if it so elects in prescribed manner and within the time prescribed and furnishes to the Minister security acceptable to the Minister for payment of any tax the payment of which is deferred by the election, pay all or any portion of such excess in such number, not exceeding ten, of equal consecutive annual instalments as is specified in its election.

First instalment.

The first instalment shall be paid on or before the day on which payment of the tax would, but for the election, have been required to be made and each subsequent instalment shall be paid on or before the anniversary of that day.

Interest.

Interest at the rate fixed under section 28 of the Tax Administration Act (chapter A-6.002) shall be paid on every tax instalment so made, from the date on which payment of the tax would, but for the election, have been required to be made to the day of payment.

History: 1994, c. 22, s. 324; 1995, c. 1, s. 165; 2010, c. 31, s. 175.

Corresponding Federal Provision: 159(6.1) and (7).

Election available to the legal representative of a deceased individual.

1032. Notwithstanding any other provision of a fiscal law, the legal representative of the individual contemplated by sections 429, 433 to 436, 439 and 444.1 who must pay for a taxation year tax exceeding that which would have been payable in the absence of the said sections may, if he furnishes to the Minister security the latter considers acceptable, elect, in the prescribed manner and within the prescribed time, to pay part or all of such excess in equal consecutive annual instalments, not exceeding ten, as is specified in his election and every payment shall be made on the conditions and at the rate of interest provided for in the second and third paragraphs of section 1031.1.

Tax for the year.

For the purposes of the first paragraph, the tax for the year shall include the tax that is payable owing to the election referred to in section 429.

History: 1973, c. 17, s. 117; 1979, c. 18, s. 71; 1980, c. 11, s. 54; 1994, c. 22, s. 325; 1995, c. 1, s. 166; 1995, c. 63, s. 211; 2015, c. 36, s. 148.

Corresponding Federal Provision: 159(5) to (7).

Election by the legal representative of a deceased individual.

1033. Where an amount is included in computing the income of an individual by virtue of paragraph *c* of section 46 of the Act respecting the application of the Taxation Act (chapter I-4) for the year of his death, section 1032 applies as though that amount were so included by virtue of section 429 or were deemed to have been received by him by virtue of section 436.

History: 1975, c. 22, s. 237.

Corresponding Federal Provision: 159(5.1).

Suspension of payment.

1033.1. Notwithstanding any other provision of a fiscal law, if a member institution furnishes adequate security to the Minister in relation to, or on behalf of, a deposit insurance corporation within the meaning assigned by sections 804 to 806, the Minister shall, until the day specified in the second paragraph, suspend the payment of the aggregate of

(a) the tax payable under this Part by the member institution for a taxation year to the extent that the amount of that tax exceeds the amount of tax that would be payable if no amount that the member institution is obliged to repay to the corporation were included, under subparagraph *a* or *b* of the first paragraph of section 814, in computing the member institution's income for the year; and

(b) interest payable under this Part by the member institution on the amount determined under paragraph *a*.

Duration.

The day contemplated in the first paragraph is the earlier of the day on which the obligation referred to in paragraph *a* of the first paragraph to repay the amount to the corporation is settled or extinguished and the day that is ten years after the end of the year contemplated in such paragraph *a*.

History: 1989, c. 77, s. 101; 1995, c. 1, s. 167; 1997, c. 3, s. 71.

Corresponding Federal Provision: 220(4.3).

CHAPTER IV.1**SECURITY FOR DEPARTURE FROM CANADA****Security for departure tax.**

1033.2. Where, at any particular time in a taxation year (in this section and sections 1033.3 and 1033.4 referred to as the "emigration year"), an individual is deemed by section 785.2 to have disposed of property, other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan, and the individual elects, in the prescribed form containing prescribed information, on or before the individual's balance-due day for the emigration year, that this section and sections 1033.3 to 1033.6 apply to the emigration year, the following rules apply:

(a) the Minister shall, until the individual's balance-due day for a particular taxation year that begins after the particular time, accept security satisfactory to the Minister and furnished by or on behalf of the individual on or before the individual's balance-due day for the emigration year for the lesser of

i. the amount determined by the formula

$$A - B - \left\{ \left[\frac{A - B}{A} \right] \times C \right\}, \text{ and}$$

ii. if the particular year is the year that follows the emigration year, the amount determined under subparagraph i, and in any other case, the amount determined under this subparagraph in respect of the individual for the taxation year that precedes the particular year; and

(b) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were an amount paid by the individual on account of the particular amount:

i. interest payable under this Part for any period that ends on the individual's balance-due day for the particular year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to an individual's tax payable for the year that was, without reference to this subparagraph, unpaid.

Interpretation.

In the formula provided for in subparagraph i of subparagraph a of the first paragraph,

(a) A is the amount of tax that would be payable by the individual under this Part for the emigration year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(b) B is the amount of tax that would have been so payable by the individual under this Part if each property, other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan, deemed by section 785.2 to have been disposed of at the particular time, and that has not been subsequently disposed of before the beginning of the particular year, were not deemed by that section to have been disposed of by the individual at the particular time; and

(c) C is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the individual's tax payable under this Part for the emigration year.

History: 2004, c. 8, s. 180; 2015, c. 36, s. 149.

Corresponding Federal Provision: 220(4.5).

Security deemed accepted.

1033.3. For the purposes of section 1033.2, this section and sections 1033.4 to 1033.6, where an individual, other than a trust, elects under section 1033.2 that that section apply in respect of a taxation year, the Minister is deemed to have accepted at any time after the election was made security satisfactory to the Minister for a total amount of tax payable under this Part by the individual for the emigration year equal to the lesser of

(a) the amount of tax that would be payable for the year by a trust to which section 768 applies that is resident in Québec on the last day of the year and whose taxable income for the year is \$50,000; and

(b) the greatest amount for which the Minister is required to accept security furnished by or on behalf of the individual under section 1033.2 at the particular time in respect of the emigration year.

Time when security is furnished.

The security referred to in the first paragraph is deemed to have been furnished by the individual before the individual's balance-due day for the emigration year.

History: 2004, c. 8, s. 180; 2012, c. 8, s. 240; 2013, c. 10, s. 142; 2017, c. 1, s. 337.

Corresponding Federal Provision: 220(4.51).

Limit.

1033.4. Notwithstanding sections 1033.2 and 1033.3, the Minister is deemed at any time not to have accepted security under section 1033.2 in respect of an individual's emigration year for any amount greater than the amount by which the particular tax that would be payable by the individual under this Part for the year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044, in respect of which the date determined in accordance with the second paragraph of that section is after that time, were not taken into account, exceeds the amount determined under the second paragraph.

Amount.

The amount to which the first paragraph refers is equal to the particular tax that would be determined under that paragraph if this Act were read without reference to section 785.2.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.52).

Inadequate security.

1033.5. Subject to section 1033.11, if it is determined at any particular time that security accepted by the Minister under section 1033.2 is not adequate to secure the particular amount for which it was furnished by or on behalf of an individual, the following rules apply:

(a) subject to a subsequent application of this section, the security shall be considered after the particular time to secure only the amount for which it is security considered satisfactory at the particular time;

(b) the Minister shall notify the individual in writing of the determination and shall accept security satisfactory to the Minister, for all or any part of the particular amount, furnished by or on behalf of the individual within 90 days after the day of notification; and

(c) any security accepted in accordance with paragraph *b* is deemed to have been accepted by the Minister under section 1033.2 on account of the particular amount at the particular time.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.53).

Extension of time.

1033.6. If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(a) the time for making an election under section 1033.2;

(b) the time for furnishing and accepting security under section 1033.2; or

(c) the 90-day period for the acceptance of security under paragraph *b* of section 1033.5.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.54).

Security upon the distribution of taxable Canadian property to a beneficiary not resident in Canada.

1033.7. The rules in the second paragraph apply where

(a) solely because of the application of section 692, subparagraphs *a* to *c* of the first paragraph of section 688 do not apply to a distribution by a trust in a particular taxation year, in this section and section 1033.8 referred to as the “distribution year”, of taxable Canadian property; and

(b) the trust elects, in prescribed manner on or before the trust’s balance-due day for the distribution year, that this section and sections 1033.8 to 1033.10 apply in respect of the distribution year.

Rules applicable.

The rules to which the first paragraph refers are as follows:

(a) the Minister shall, until the trust’s balance-due day for a subsequent taxation year, accept security satisfactory to the Minister and furnished by or on behalf of the trust on or before the trust’s balance-due day for the distribution year for the lesser of

i. the amount determined by the formula

$$A - B - \{[(A - B) / A] \times C\}, \text{ and}$$

ii. if the subsequent year is the year that follows the distribution year, the amount determined under subparagraph i, and in any other case, the amount determined under this subparagraph in respect of the trust for the taxation year that precedes the subsequent year; and

(b) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were an amount paid by the trust on account of the particular amount:

i. interest payable under this Part for any period that ends on the trust’s balance-due day for the subsequent year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to the trust’s tax payable for the year that was, without reference to this subparagraph, unpaid.

Interpretation.

In the formula provided for in subparagraph i of subparagraph *a* of the second paragraph,

(a) *A* is the amount of tax that would be payable by the trust under this Part for the distribution year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(b) *B* is the amount of tax that would be so payable by the individual under this Part if the rules in section 688, other than the election referred to in that section, had applied to each distribution by the trust in the distribution year of property, other than property subsequently disposed of before the beginning of the subsequent year, to which subparagraph *a* of the first paragraph applies; and

(c) *C* is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the trust’s tax payable under this Part for the distribution year.

History: 2004, c. 8, s. 180; 2009, c. 5, s. 481.

Corresponding Federal Provision: 220(4.6).

Limit.

1033.8. Notwithstanding section 1033.7, the Minister is deemed at any time not to have accepted security under that section in respect of a trust’s distribution year for any amount greater than the amount by which the particular tax that would be payable by the trust under this Part for the year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 in respect of which the date determined in accordance with the second

paragraph of that section is after that time, were not taken into account, exceeds the amount determined under the second paragraph.

Amount.

The amount to which the first paragraph refers is equal to the particular tax that would be determined under that paragraph if subparagraphs *a* to *c* of the first paragraph of section 688 had applied to each distribution by the trust in the year of property to which subparagraph *a* of the first paragraph of section 1033.7 applies.

History: 2004, c. 8, s. 180; 2009, c. 5, s. 482.

Corresponding Federal Provision: 220(4.61).

Inadequate security.

1033.9. Subject to section 1033.11, if it is determined at any particular time that security accepted by the Minister under section 1033.7 is not adequate to secure the particular amount for which it was furnished by or on behalf of a trust, the following rules apply:

(a) subject to a subsequent application of this section, the security shall be considered after the particular time to secure only the amount for which it is security considered satisfactory at the particular time;

(b) the Minister shall notify the trust in writing of the determination and shall accept security satisfactory to the Minister, for all or any part of the particular amount, furnished by or on behalf of the trust within 90 days after the notification; and

(c) any security accepted in accordance with paragraph *b* is deemed to have been accepted by the Minister under section 1033.7 on account of the particular amount at the particular time.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.62).

Extension of time.

1033.10. If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(a) the time for making an election under section 1033.7;

(b) the time for furnishing and accepting security under section 1033.7; or

(c) the 90-day period for the acceptance of security under paragraph *b* of section 1033.9.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.63).

Undue hardship.

1033.11. The Minister may, in respect of an election made by an individual under section 1033.2 or 1033.7, accept for any particular period of time security different from, or of lesser value than, that which the Minister would otherwise accept under that section, if, in respect of that period, the Minister determines that the individual cannot, without undue hardship, pay or reasonably arrange to have paid on the individual's behalf, an amount of tax to which security under that section would relate, and cannot, without undue hardship, furnish or reasonably arrange to have furnished on the individual's behalf, adequate security under that section.

History: 2004, c. 8, s. 180.

Corresponding Federal Provision: 220(4.7).

Restriction.

1033.12. In making a determination under section 1033.11, the Minister shall ignore any transaction that is a disposition, lease, encumbrance, hypothec, mortgage or other voluntary restriction by a person or partnership of the person's or partnership's rights in respect of a property, if the transaction can reasonably be considered to have been entered into for the purpose of influencing the determination.

History: 2004, c. 8, s. 180; 2005, c. 1, s. 270.

Corresponding Federal Provision: 220(4.71).

Suspension of prescription.

1033.13. The prescription provided for in the first paragraph of section 27.3 of the Tax Administration Act (chapter A-6.002) is suspended for the time during which a security is accepted or is deemed to be accepted by the Minister under this chapter.

History: 2004, c. 8, s. 180; 2010, c. 31, s. 175.

Interpretation Bulletins: LAF. 27.3-1/R3.

CHAPTER IV.2

SECURITY IN RESPECT OF THE DEEMED DISPOSITION OF A SHARE OF A PUBLIC CORPORATION

DIVISION I

INTERPRETATION AND GENERAL RULES

Definitions :

1033.14. In this chapter

“*base total payroll in Québec*”;

“base total payroll in Québec” of a corporation for a particular taxation year has the meaning assigned by section 1033.15;

“*eligible employee*”;

“eligible employee” of a corporation for a pay period means an employee of the corporation who, throughout that period, reports for work at an establishment of the corporation situated in Québec;

“eligible share”;

“eligible share” means

(a) a share forming part of a large block of shares or of a portion of a large block of shares of the capital stock of a qualified public corporation; or

(b) a share of the capital stock of a private corporation more than 95% of the fair market value of the assets of which is attributable to a large block of shares or a portion of a large block of shares of the capital stock of a qualified public corporation;

“large block of shares”;

“large block of shares” of the capital stock of a corporation means a block of shares of the capital stock of the corporation that gives its owner more than 33 1/3% of the votes that could be cast under any circumstances at the annual meeting of shareholders of the corporation;

“portion of a large block of shares”;

“portion of a large block of shares” of the capital stock of a corporation means one or more shares of the capital stock of the corporation owned by a member of a related group at a particular time if the following conditions are met at the particular time:

(a) each member of the related group owns shares of the capital stock of the corporation; and

(b) the related group owns a large block of shares of the capital stock of the corporation;

“qualified public corporation”;

“qualified public corporation” at a particular time means a corporation that, in relation to a share owned by an individual,

(a) is a public corporation at that time;

(b) has its head office in Québec at that time; and

(c) unless the particular time corresponds to the time of the deemed disposition of the share by the individual under section 436 or 653, its base total payroll in Québec for its taxation year that includes the particular time is at least 75% of its base total payroll in Québec for the taxation year in which the deemed disposition occurred;

“total payroll in Québec”.

“total payroll in Québec” of a corporation for a taxation year means the aggregate of all amounts each of which is the salary or wages paid by the corporation in a pay period that ends in the year to an eligible employee of the corporation for the pay period.

Eligible employee.

For the purposes of the definition of “eligible employee” in the first paragraph,

(a) where, during a pay period included in a taxation year, an employee of a corporation reports for work at an establishment of the corporation situated in Québec and at an

establishment of the corporation situated outside Québec, the employee is, for that period, deemed

i. unless subparagraph ii applies, to report for work only at the establishment situated in Québec, or

ii. to report for work only at the establishment situated outside Québec if, during that period, the employee reports for work mainly at an establishment of the corporation situated outside Québec; and

(b) where, during a pay period included in a taxation year, an employee of a corporation is not required to report for work at an establishment of the corporation and the employee’s salary or wages in relation to that period are paid from such an establishment situated in Québec, the employee is deemed to report for work at that establishment if the duties performed by the employee during that period are performed mainly in Québec.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Corporation’s base total payroll in Québec.

1033.15. Subject to section 1033.16, a corporation’s base total payroll in Québec for a particular taxation year means the amount determined by the formula

$(A \times 365)/B$.

Formula elements.

In the formula in the first paragraph,

(a) A is the total of all amounts each of which is the corporation’s total payroll in Québec for a taxation year of the corporation ended in the period of 1,095 consecutive days that ends at the end of the particular taxation year; and

(b) B is the total of the number of days included in each of the taxation years referred to in subparagraph a.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Associated corporations.

1033.16. The base total payroll in Québec for a particular taxation year of a corporation that is associated with another corporation in the particular year is equal to the aggregate of

(a) its base total payroll in Québec for the particular year; and

(b) the aggregate of all amounts each of which is the base total payroll in Québec of another corporation with which the corporation is associated in the particular year for the taxation year of the other corporation that ends in the particular year.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

DIVISION II
SECURITY IN RESPECT OF CERTAIN DEEMED
DISPOSITIONS OF ELIGIBLE SHARES

Security.

1033.17. Where, at a particular time in a taxation year (in this section and section 1033.20 referred to as the “year of disposition”), an individual is deemed under section 436 to have disposed of an eligible share of a particular class of the capital stock of a corporation and the individual’s legal representative elects, in the prescribed form containing prescribed information, on or before the individual’s balance-due day for the year of disposition, to have this chapter apply to the year of disposition, the following rules apply:

(a) the Minister shall, until the balance-due day of a particular person who is either the individual’s succession or a beneficiary of the succession referred to in the fourth paragraph for a particular taxation year that begins after the particular time, accept security satisfactory to the Minister and furnished by the individual’s legal representative on or before the individual’s balance-due day for the year of disposition for the lesser of

i. the amount determined by the formula

$120\% \{A - B - [(A - B)/A \times C]\}$, and

ii. if the particular year is the year that follows the year of disposition, the amount determined under subparagraph i and, in any other case, the amount determined under this subparagraph *a* in respect of the particular person for the taxation year that precedes the particular year; and

(b) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were, on the one hand, equal to the amount that would be determined in accordance with subparagraph *a* if the formula in subparagraph i of that subparagraph were read as if “120%” were replaced by “100%” and, on the other hand, an amount paid by the individual or the particular person, as the case may be, on account of the particular amount:

i. interest payable under this Part for any period that begins on the individual’s balance-due day for the year of disposition and ends on the particular person’s balance-due day for the particular year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to an individual’s tax payable for the year that was, without reference to this subparagraph *b*, unpaid.

Formula elements.

In the formula in subparagraph i of subparagraph *a* of the first paragraph,

(a) *A* is the amount of tax that would be payable by the individual under this Part for the year of disposition if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(b) *B* is the amount of tax that would have been so payable by the individual under this Part if all the shares, each of which is an eligible share of the particular class deemed under section 436 to have been disposed of at the particular time, other than a share in respect of which one of the conditions in the third paragraph is met, were not deemed by that section to have been disposed of by the individual at the particular time; and

(c) *C* is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the individual’s tax payable under this Part for the year of disposition.

Applicability.

The conditions to which subparagraph *b* of the second paragraph refers in respect of a share are as follows:

(a) it is subsequently disposed of before the beginning of the particular year;

(b) it ceases, throughout a one-month period ending in the particular year, to be an eligible share of the particular person; and

(c) the twentieth anniversary of its deemed disposition occurs in the particular year.

Novation.

Where an eligible share of the capital stock of a corporation owned by the individual at the particular time is transferred as a consequence of a distribution by the individual’s succession to a beneficiary of the succession, where, immediately after the transfer, the share is an eligible share and where an agreement effecting novation is entered into between the Minister and the beneficiary under which the indebtedness represented by tax attributable to the deemed disposition of the share becomes the debt of the beneficiary, this chapter applies, with the necessary modifications, from the transfer, in respect of satisfactory security furnished by the beneficiary and accepted by the Minister, as if the beneficiary were the same person as and a continuation of the individual’s succession.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Security.

1033.18. Where, at a particular time in a taxation year (in this section and section 1033.20 referred to as the “year of disposition”), a trust is deemed under section 653 to have disposed of an eligible share of a particular class of the capital stock of a corporation and it elects, in the prescribed form containing prescribed information, on or before its balance-due day for the year of disposition, to have this chapter apply to the year of disposition, the following rules apply:

(a) the Minister shall, until the balance-due day of a particular person that is either the trust or a beneficiary referred to in the fourth paragraph for a particular taxation year that begins after the particular time, accept security satisfactory to the Minister and furnished by or on behalf of the trust on or before the trust’s balance-due day for the year of disposition for the lesser of

i. the amount determined by the formula

$120\% \{A - B - [(A - B)/A \times C]\}$, and

ii. if the particular year is the year that follows the year of disposition, the amount determined under subparagraph i and, in any other case, the amount determined under this subparagraph *a* in respect of the particular person for the taxation year that precedes the particular year; and

(b) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were, on the one hand, equal to the amount that would be determined in accordance with subparagraph *a* if the formula in subparagraph i of that subparagraph were read as if “120%” were replaced by “100%” and, on the other hand, an amount paid by the particular person on account of the particular amount:

i. interest payable under this Part for any period that ends on the particular person’s balance-due day for the particular year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to the particular person’s tax payable for the year that was, without reference to this subparagraph *b*, unpaid.

Formula elements.

In the formula in subparagraph i of subparagraph *a* of the first paragraph,

(a) *A* is the amount of tax that would be payable by the trust under this Part for the year of disposition if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(b) *B* is the amount of tax that would have been so payable by the trust under this Part if all the shares, each of which is an eligible share of the particular class deemed under section 653 to have been disposed of at the particular time, other than a share in respect of which one of the conditions in the third paragraph is met, were not deemed under that section to have been disposed of by the trust at the particular time; and

(c) *C* is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the trust’s tax payable under this Part for the year of disposition.

Applicability.

The conditions to which subparagraph *b* of the second paragraph refers in respect of a share are as follows:

(a) it is subsequently disposed of before the beginning of the particular year;

(b) it ceases, throughout a one-month period ending in the particular year, to be an eligible share of the particular person; and

(c) the twentieth anniversary of its deemed disposition occurs in the particular year.

Novation.

Where an eligible share of the capital stock of a corporation owned by a trust at the particular time is transferred as a consequence of a distribution by the trust to a beneficiary of the trust, where, immediately after the transfer, the share is an eligible share and where an agreement effecting novation is entered into between the Minister and the beneficiary under which the indebtedness represented by tax attributable to the deemed disposition of the share becomes the debt of the beneficiary, this chapter applies, with the necessary modifications, from the transfer, in respect of satisfactory security furnished by the beneficiary and accepted by the Minister, as if the beneficiary were the same person as and a continuation of the trust.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Calendar month.

1033.19. For the purposes of subparagraph *b* of the third paragraph of sections 1033.17 and 1033.18, a month means a period that begins on a particular day in a calendar month and that ends

(a) on the day immediately before the day in the following calendar month that has the same calendar number as the particular day, or

(b) where the following calendar month does not have a day that has the same calendar number as the particular day, on the last day of the following month.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Limit.

1033.20. Despite sections 1033.17 and 1033.18, the Minister is deemed at any time not to have accepted security under either of those sections in respect of the year of disposition of eligible shares of a particular class of the capital stock of a corporation owned by an individual or a trust for an amount greater than 120% of the amount by which the particular tax that would be payable by the individual or trust, as the case may be, under this Part for the year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 in respect of which the date determined in accordance with the second paragraph of that section is after that time, were not taken into account, exceeds the amount determined under the second paragraph.

Amount.

The amount to which the first paragraph refers is equal to the particular tax that would be determined under that paragraph if the eligible shares referred to in the first paragraph were not deemed under section 436 or 653 to have been disposed of.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Inadequate security.

1033.21. Subject to section 1033.25, if it is determined at a particular time that security accepted by the Minister under section 1033.17 or 1033.18 is not adequate to secure the particular amount for which it was furnished by or on behalf of the individual's legal representative or the trust, as the case may be, the following rules apply:

(a) subject to a subsequent application of this section, the security shall be considered after the particular time to secure only the amount for which it is security considered satisfactory at the particular time;

(b) the Minister shall notify in writing the legal representative or trust, or the person referred to in the fourth paragraph of section 1033.17 or 1033.18, of the determination and shall accept security satisfactory to the Minister, for all or any part of the particular amount, furnished by the person concerned or on that person's behalf within 90 days after the notification;

(c) any security accepted in accordance with subparagraph *b* is deemed to have been accepted by the Minister under section 1033.17 or 1033.18, as the case may be, on account of the particular amount at the particular time; and

(d) if the person concerned fails to furnish, within the time prescribed in subparagraph *b*, security satisfactory to the Minister to secure the particular amount in its entirety, the portion of subparagraph *b* of the first paragraph of section 1033.17 or 1033.18 before subparagraph *i* is to be read, after the particular time and subject to a subsequent application of this section, as if "100%" were replaced by the percentage determined by the formula

$$100\% - [(120\% - A)/120\%].$$

Formula element.

In the formula in subparagraph *d* of the first paragraph, *A* is the proportion, expressed as a percentage, that the value of the security at the particular time, determined in accordance with the first paragraph, is of the amount that would be determined by the formula in subparagraph *i* of subparagraph *a* of the first paragraph of section 1033.17 or 1033.18, as the case may be, if it were read without "120%".

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Extension of time.

1033.22. If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(a) the time for making an election under section 1033.17 or 1033.18;

(b) the time for furnishing and accepting security, provided for in section 1033.17 or 1033.18; or

(c) the 90-day period for the acceptance of security, provided for in subparagraph *b* of the first paragraph of section 1033.21.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

DIVISION III

METHOD FOR CALCULATING SECURITY ON THE TWENTIETH ANNIVERSARY OF THE DEEMED DISPOSITION

Twentieth anniversary of the deemed disposition.

1033.23. Despite sections 1033.17 and 1033.18, where the twentieth anniversary of the deemed disposition, because of section 436 or 653, of an eligible share of the capital stock of a corporation occurs in a particular taxation year of an individual and the fair market value of that eligible share on the twentieth anniversary of the deemed disposition is less than its fair market value at the time of the deemed disposition, section 1033.17 or 1033.18, as the case may be, is to be read, if the Minister is of the opinion that the reduction in value is not attributable to a distribution in any manner whatsoever, in relation to that eligible share and in

respect of the individual's particular taxation year and a subsequent taxation year in respect of which section 1033.24 does not apply,

(a) as if the formula in subparagraph i of subparagraph a of the first paragraph were replaced by the formula

$$\{A - B - [(A - B)/A \times C]\} \times (1 - D);$$

(b) as if “, on the one hand, equal to the amount that would be determined in accordance with subparagraph a if the formula in subparagraph i of that subparagraph were read as if “120%” were replaced by “100%” and, on the other hand,” in the portion of subparagraph b of the first paragraph before subparagraph i were struck out;

(c) as if the following subparagraph were added at the end of the second paragraph:

“(d) D is the proportion, expressed as a percentage, that the fair market value of the eligible share on the twentieth anniversary of the deemed disposition is of its fair market value at the time of the deemed disposition.”; and

(d) as if subparagraph c of the third paragraph were struck out.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Computation of security.

1033.24. Where section 1033.23 applied in respect of an eligible share of the capital stock of a corporation and the fair market value of that eligible share on the twenty-second anniversary of the deemed disposition is greater than its fair market value on the twentieth anniversary of the deemed disposition, section 1033.17 or 1033.18, as the case may be, is to be read, in relation to that eligible share and in respect of the individual's particular taxation year that includes the twenty-second anniversary and the individual's following taxation year,

(a) as if the formula in subparagraph i of subparagraph a of the first paragraph were replaced by the formula

$$\{A - B - [(A - B)/A \times C]\} \times (1 - D);$$

(b) as if “, on the one hand, equal to the amount that would be determined in accordance with subparagraph a if the formula in subparagraph i of that subparagraph were read as if “120%” were replaced by “100%” and, on the other hand,” in the portion of subparagraph b of the first paragraph before subparagraph i were struck out;

(c) as if the following subparagraph were added at the end of the second paragraph:

“(d) D is the proportion, expressed as a percentage, that the fair market value of the eligible share on the twenty-second

anniversary of the deemed disposition is of its fair market value at the time of the deemed disposition.”; and

(d) as if subparagraph c of the third paragraph were struck out.

Application.

The first paragraph applies at successive two-year intervals following the twenty-second anniversary referred to in that paragraph, with the necessary modifications. However, if the fair market value of the eligible share on that subsequent anniversary is greater than its fair market value on the last anniversary in respect of which the first paragraph applied, subparagraph d of the second paragraph of section 1033.17 or 1033.18, as the case may be, enacted by subparagraph c of the first paragraph, is to be read as follows:

“(d) D is the proportion, expressed as a percentage, that the fair market value of the eligible share on the subsequent anniversary to which the second paragraph of section 1033.24 refers is of the fair market value of the eligible share at the time of the deemed disposition.”.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

DIVISION IV MISCELLANEOUS PROVISIONS

Undue hardship.

1033.25. The Minister may, in respect of an election made by an individual's legal representative or a trust under section 1033.17 or 1033.18, as the case may be, accept for a particular period of time security different from, or of lesser value than, that which the Minister would otherwise accept under that section if, in respect of that period, the Minister determines that the individual's succession or the trust cannot, without undue hardship, pay or reasonably arrange to have paid on its behalf an amount of tax to which security furnished under that section would relate and cannot, without undue hardship, furnish or reasonably arrange to have furnished on its behalf adequate security under that section.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Restriction.

1033.26. In making a determination under section 1033.25, the Minister shall ignore any transaction that is a disposition, lease, encumbrance, hypothec, mortgage or other voluntary restriction by a person or partnership of the person's or partnership's rights in respect of a property, if the transaction can reasonably be considered to have been entered into for the purpose of influencing the determination.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

Suspension of prescription.

1033.27. The prescription provided for in the first paragraph of section 27.3 of the Tax Administration Act (chapter A-6.002) is suspended for the period during which a security is accepted or is deemed to be accepted by the Minister under this chapter.

History: 2019, c. 14, s. 424.

Interpretation Bulletins: IMP. 1033.14-1.

CHAPTER V SOLIDARY LIABILITY TO PAY TAX

Property transferred not at arm's length.

1034. Where a person transfers property, directly or indirectly, by means of a trust or by any means whatever to a person with whom he is not dealing at arm's length, a person who is under 18 years of age, or his spouse or a person who, after the transfer, becomes his spouse, the transferee and transferor are solidarily liable to pay a part of the transferor's tax for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of sections 456 to 458, 462.1 to 463 and 464 to 467.1, in respect of any income from, or gain from the disposition of, the property so transferred or property substituted therefor.

History: 1972, c. 23, s. 759; 1984, c. 15, s. 234; 1987, c. 67, s. 186; 1989, c. 77, s. 102; 1995, c. 1, s. 168.

Corresponding Federal Provision: 160(1).

Solidary liability.

1034.0.0.1. Where a particular person or partnership is deemed under section 427.4 to have disposed of a property at any time, the person referred to in subparagraph *i* or *ii* of paragraph *a* of that section is solidarily liable with each other taxpayer to pay a part of the other taxpayer's liabilities under this Part for each taxation year equal to the amount determined by the formula

$A - B.$

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is the total of amounts payable under this Part by the other taxpayer for the year; and

(b) *B* is the amount that would, if the particular person or partnership were not deemed under section 427.4 to have disposed of the property, be determined under subparagraph *a* in respect of the other taxpayer for the year.

Taxpayer's liability.

However, nothing under this section is deemed to limit the liability of the other taxpayer under any other provision of this Act.

History: 2000, c. 5, s. 272.

Corresponding Federal Provision: 160(1.1).

Solidary liability.

1034.0.0.2. Where an amount is required to be added under section 766.3.4 in computing a specified individual's tax otherwise payable under this Part for a taxation year and the specified individual has not attained the age of 24 years before the year, the following rules apply:

(a) subject to subparagraph *b*, any of the following persons is solidarily liable with the specified individual to pay that amount:

- i.* if the specified individual has not attained the age of 17 years before the year, the father or mother of the specified individual, and
- ii.* if the specified individual has attained the age of 17 years before the year, the source individual in respect of the specified individual where

(1) the amount was derived directly or indirectly from a related business in respect of the specified individual, with reference to paragraph *d* of section 766.3.3.1, and

(2) the source individual meets the conditions set out in any of paragraphs *a* to *c* of the definition of "related business" in the first paragraph of section 766.3.3 in respect of the related business; and

(b) the liability of any of the persons referred to in subparagraph *a* in respect of the specified individual for the year is to be determined as though the only amounts included in the specified individual's split income for the year are amounts derived from the related business referred to in subparagraph *ii* of subparagraph *a*.

Specified individual's liability.

However, nothing in this section limits the liability of the specified individual under any other provision of this Act or the liability of any of the persons referred to in subparagraph *a* of the first paragraph for the interest that the person is liable to pay under this Act on an assessment in respect of an amount that the person is liable to pay because of this section.

History: 2001, c. 53, s. 229; 2015, c. 21, s. 493; 2020, c. 16, s. 162.

Corresponding Federal Provision: 160(1.2).

Solidarity liability in case of split-retirement income.

1034.0.0.3. If a transferor and a transferee, within the meaning assigned to those expressions by the first paragraph

of section 336.8, make a joint election under Chapter II.1 of Title VI of Book III in respect of a split-retirement income amount for a taxation year, determined in their respect for the purposes of that chapter, they are solidarily liable for the tax payable by the transferee under this Part for the year to the extent that that tax payable is greater than it would have been if no amount had been added because of the first paragraph of section 313.11 in computing the income of the transferee under this Part for the year.

History: 2009, c. 5, s. 483.

Corresponding Federal Provision: 160(1.3).

Solidary liability where section 663.0.1 applies.

1034.0.0.4. If section 663.0.1 deems an amount to have become payable in a taxation year of a trust to an individual, the individual and the trust are solidarily liable for the tax payable by the individual under this Part for the individual's taxation year in which the individual dies to the extent that that tax payable is greater than it would have been if the amount were not included in computing the individual's income under this Part for the year.

History: 2017, c. 1, s. 338.

Corresponding Federal Provision: 160(1.4).

Transfer of property to spouse.

1034.0.1. Notwithstanding section 1034, the rules mentioned in section 1034.0.2 apply where a taxpayer transfers property to his spouse under a decree, order or judgment of a competent tribunal or under a written separation agreement and where, at the time of the transfer, the taxpayer and his spouse are living apart because of the breakdown of their marriage.

Taxpayer's liability.

However, nothing in section 1034.0.2 or in this section shall operate to reduce the taxpayer's liability under any other provision of this Act.

History: 1986, c. 15, s. 181; 1995, c. 1, s. 169; 1995, c. 49, s. 236.

Corresponding Federal Provision: 160(4) before (a) and after (b).

Rules applicable.

1034.0.2. The rules contemplated in section 1034.0.1 are the following:

(a) where the property is transferred after 15 February 1984, the transferee shall not be liable to pay under section 1034 any amount in respect of any income from, or gain from the disposition of, the property so transferred or property substituted therefor;

(b) where the property is transferred before 16 February 1984, and where the transferee would, but for this paragraph, be liable to pay an amount under this Act by virtue of section 1034, the transferee's liability in respect of that

amount shall be deemed to have been discharged on 16 February 1984.

History: 1986, c. 15, s. 181; 1989, c. 77, s. 103.

Corresponding Federal Provision: 160(4)(a) and (b).

Solidary liability in the case of a registered retirement savings plan.

1034.1. (1) Where an amount is received out of or under a registered retirement savings plan by an individual other than an annuitant within the meaning of paragraph *b* of section 905.1 under the plan, and that amount or part thereof would, but for subparagraph *i* of paragraph *a* of that section, be received by the individual as a benefit within the meaning of the said paragraph *a*, the individual and the last annuitant under the plan are solidarily liable to pay a part of the annuitant's tax under this Part for the year of his death equal to that proportion of the amount by which that tax exceeds the tax that would have been computed but for section 915.2 that the aggregate of all amounts received from the plan by the individual and that would, but for the said subparagraph *i*, be a benefit, within the meaning of the said paragraph *a*, received by the taxpayer, is of the amount included under section 915.2 in computing the income of the annuitant.

Solidary liabilities in the case of a registered retirement income fund.

(2) Where an amount is received out of or under a registered retirement income fund by an individual, other than an annuitant under the fund, and that amount or part thereof would, but for subparagraph *a* of the first paragraph of section 961.17, be included in computing the individual's income for the year of receipt pursuant to the first paragraph of the said section, the individual and the annuitant under the fund are solidarily liable to pay a part of the annuitant's tax under this Part for the year of his death equal to that proportion of the amount by which that tax exceeds the tax that would have been computed but for section 961.17.1 that the aggregate of all amounts each of which is an amount received from the fund by the individual and that would, but for subparagraph *a* of the first paragraph of section 961.17, be included in computing the individual's income for the year of receipt pursuant to the first paragraph of the said section is of the amount included pursuant to section 961.17.1 in computing the annuitant's income.

Solidary liability in respect of qualifying trust annuity.

(2.0.1) If a taxpayer is deemed under section 467.2 to have received at any time an amount out of or under an annuity that is a qualifying trust annuity with respect to the taxpayer, the taxpayer, the annuitant under the annuity and the policyholder are solidarily liable to pay the part of the taxpayer's tax under this Part for the taxation year of the taxpayer that includes that time that is equal to the amount by which that tax exceeds the tax that would have been computed in respect of the taxpayer for the year if no amount were deemed under section 467.2 to have been received by the taxpayer out of or under the annuity in the year.

Solidary liability in case of retirement compensation arrangement.

(2.1) Where an amount required to be included in the income of a taxpayer by virtue of paragraph *a* of section 890.9 is received by a person with whom the taxpayer is not dealing at arm's length, that person is solidarily liable with the taxpayer to pay a part of the taxpayer's tax under this Part for the taxation year in which the amount is received equal to the amount by which the taxpayer's tax for the year exceeds the amount that would be his tax for the year if the amount had not been received.

Annuitant or beneficiary not free of their liabilities.

(3) However, this section does not free the annuitant under the plan or fund or the taxpayer, as the case may be, from his liabilities under any other provision of this Act.

History: 1980, c. 13, s. 105; 1988, c. 18, s. 115; 1989, c. 77, s. 104; 1991, c. 25, s. 168; 1995, c. 1, s. 199; 2009, c. 15, s. 353; 2020, c. 16, s. 163.

Corresponding Federal Provision: 160.2(1), (2), (2.1) and (3).

Solidary liability in respect of transfers by insolvent corporations.

1034.2. Where property is transferred at any time by a corporation to a taxpayer with whom the corporation does not deal at arm's length at that time and the corporation is not entitled because of section 346.3 to deduct an amount under section 346.2 in computing its income for a taxation year because of the transfer or because of the transfer and one or more other transactions, the taxpayer is solidarily liable with the corporation to pay an amount of the corporation's tax under this Part for the year equal to the amount by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property.

Corporation's liability.

However, nothing in this section limits the liability of the corporation under any other provision of this Act.

History: 1996, c. 39, s. 251; 1997, c. 3, s. 71.

Corresponding Federal Provision: 160.4(1).

Indirect transfers.

1034.3. Where property is transferred at any time from a taxpayer, in this section referred to as the "transferor", to another taxpayer, in this section referred to as the "transferee", with whom the transferor does not deal at arm's length, the transferor is liable because of this section or section 1034.2, to pay an amount of the tax of another person, in this section referred to as the "debtor", under this Part, and it can reasonably be considered that one of the reasons of the transfer is to prevent the enforcement of this section or section 1034.2, the transferee is solidarily liable with the transferor and the debtor to pay an amount of the

debtor's tax under this Part equal to the lesser of the amount of such tax that the transferor was liable to pay at that time and the amount by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property.

Debtor's liability.

However, nothing in this section limits the liability of the debtor or the transferor under any provision of this Act.

History: 1996, c. 39, s. 251.

Corresponding Federal Provision: 160.4(2).

Fair market value of an undivided right.

1034.3.1. For the purposes of sections 1034.2 and 1034.3, the fair market value at any time of an undivided right in a property is deemed to be equal to the proportion of the fair market value of the property at that time that the right is of all the undivided rights in the property.

History: 2001, c. 53, s. 230; 2020, c. 16, s. 164.

Corresponding Federal Provision: 160(3.1).

Solidary liability for Québec sales tax credit refund.

1034.4. Where, for a taxation year, the Minister has refunded an amount to an individual or has applied an amount to another of the individual's liabilities, and that amount is greater than the amount that should have been refunded or applied, the individual and the person who, for the year, is the individual's eligible spouse are solidarily liable for payment of that excess amount, to the extent that the excess amount may reasonably be considered to relate to the application of section 1029.8.105.

Liability.

However, nothing in this section limits the liability of the individual or the individual's eligible spouse for the year, where applicable, under any other provision of this Act.

History: 1997, c. 85, s. 273.

Corresponding Federal Provision: 160.1(1) and (2).

Meaning of "eligible spouse".

1034.5. For the purposes of section 1034.4 and of section 1035 where that section applies in respect of an eligible spouse of an individual in relation to an amount payable under section 1034.4, "eligible spouse" of an individual for a taxation year has the meaning assigned by section 1029.8.101.

History: 1997, c. 85, s. 273; 1999, c. 83, s. 221.

Solidary liability for a refund of the credit for individuals living in a northern village.

1034.6. Where, for a taxation year, the Minister has refunded an amount to an individual or has applied an amount to another of the individual's liabilities, and that

amount is greater than the amount that should have been refunded or applied, the individual and the person who, for the year, is the individual's eligible spouse are solidarily liable for payment of that excess amount, to the extent that the excess amount may reasonably be considered to relate to the application of section 1029.8.114 or 1029.8.114.1.

Liability.

However, nothing in this section limits the liability of the individual or the individual's eligible spouse for the year, where applicable, under any other provision of this Act.

History: 1999, c. 83, s. 222; 2009, c. 5, s. 484.

Eligible spouse.

1034.7. For the purposes of section 1034.6 and of section 1035 where that section applies in respect of an eligible spouse of an individual in relation to an amount payable under section 1034.6, "eligible spouse" of an individual for a taxation year has the meaning assigned by section 1029.8.110.

History: 1999, c. 83, s. 222.

Solidary liability in case of refund.

1034.8. If, for a taxation year, the Minister has refunded an amount to a trust governed by a registered education savings plan or has applied an amount to another of the trust's liabilities, and that amount is greater than the amount that should have been refunded or applied, a beneficiary in respect of whom an educational assistance payment has been made under the plan is solidarily liable with the trust for payment of the excess amount, to the extent that the excess amount may reasonably be considered to relate to the application of section 1029.8.128 and up to the portion of the educational assistance payment that may reasonably be attributed to the excess amount.

Liability not limited.

However, nothing in this section limits the liability of the trust or the beneficiary under any other provision of this Act.

History: 2009, c. 5, s. 485.

Interpretation.

1034.9. For the purposes of section 1034.8 and section 1035 when that section applies in respect of a beneficiary in relation to an amount payable under section 1034.8, "beneficiary", "educational assistance payment" and "trust" have the meaning assigned by section 890.15.

History: 2009, c. 5, s. 485.

Solidary liability in respect of registered disability savings plan.

1034.10. If, in computing taxable income for a taxation year, a taxpayer is required to include an amount in respect of

a disability assistance payment, within the meaning assigned by the first paragraph of section 905.0.3, that is deemed under subparagraph *b* or *c* of the first paragraph of section 905.0.20 to have been made at a particular time from a registered disability savings plan, the taxpayer and each holder, within the meaning assigned by the first paragraph of section 905.0.3, of the plan immediately after the particular time are solidarily liable to pay a part of the taxpayer's tax under this Part for that taxation year that is equal to the amount determined by the formula

$A - B.$

Interpretation.

In the formula in the first paragraph,

(a) *A* is the amount of the taxpayer's tax under this Part for the year; and

(b) *B* is the amount that would be the taxpayer's tax under this Part for the year if no disability assistance payment were deemed by subparagraph *b* or *c* of the first paragraph of section 905.0.20 to have been made from a registered disability savings plan at a particular time.

Liability not limited.

However, this section limits neither the liability of the taxpayer under any other provision of this Act, nor the liability of any holder for the interest that the holder is liable to pay under this Act on an assessment in respect of an amount that the holder is liable to pay because of this section.

History: 2009, c. 15, s. 354; 2015, c. 21, s. 494.

Corresponding Federal Provision: 160.21(1) and (2).

Assessment.

1035. The Minister may at any time assess a taxpayer in respect of any amount payable under any of sections 1034 to 1034.0.0.4, any of subsections 1 to 2.1 of section 1034.1 or any of sections 1034.2, 1034.3, 1034.4, 1034.6, 1034.8 and 1034.10, as the case may be, and this Book applies, with the necessary modifications, to an assessment made under this section as though it had been made under Title II.

History: 1972, c. 23, s. 760; 1973, c. 17, s. 118; 1980, c. 13, s. 106; 1989, c. 77, s. 105; 1995, c. 63, s. 261; 1996, c. 39, s. 252; 1997, c. 85, s. 274; 1999, c. 83, s. 223; 2000, c. 5, s. 273; 2001, c. 53, s. 231; 2003, c. 9, s. 368; 2009, c. 5, s. 486; 2009, c. 15, s. 355; 2017, c. 1, s. 339; 2017, c. 29, s. 198.

Corresponding Federal Provision: 160(2).

Solidary liability in the case of a trust deemed resident in Canada.

1035.1. The Minister may at any time assess a taxpayer in respect of any amount payable under paragraph *g* of section 595 or section 597.0.15, and this Book applies, with

the necessary modifications, to an assessment made under this section as though it had been made under Title II.

History: 2015, c. 36, s. 150.

Corresponding Federal Provision: 160(2.1).

Discharge of liability.

1036. If a particular taxpayer and another taxpayer are, under paragraph *g* of section 595 or any of sections 597.0.15, 1034 to 1034.0.0.4, 1034.1 to 1034.3, 1034.4, 1034.6, 1034.8 and 1034.10, as the case may be, solidarily liable in respect of all or part of a liability of the other taxpayer, the following rules apply:

(a) a payment by, and on account of the liability of, the particular taxpayer discharges, up to the amount of the payment, their solidary liability; and

(b) a payment by, and on account of the liability of, the other taxpayer discharges the liability of the particular taxpayer only to the extent that the payment operates to reduce the liability of the other taxpayer to an amount less than the amount in respect of which the particular taxpayer is solidarily liable under paragraph *g* of section 595 or any of sections 597.0.15, 1034 to 1034.0.0.4, 1034.1 to 1034.3, 1034.4, 1034.6, 1034.8 and 1034.10, as the case may be.

History: 1972, c. 23, s. 761; 1980, c. 13, s. 106; 1988, c. 18, s. 116; 1989, c. 77, s. 106; 1995, c. 1, s. 199; 1996, c. 39, s. 253; 1997, c. 85, s. 275; 1999, c. 83, s. 224; 2000, c. 5, s. 274; 2001, c. 53, s. 232; 2009, c. 5, s. 486; 2009, c. 15, s. 356; 2015, c. 36, s. 151; 2017, c. 1, s. 340; 2017, c. 29, s. 199.

Corresponding Federal Provision: 160(3).

1036.1. *(Repealed).*

History: 1987, c. 21, s. 73; 1990, c. 7, s. 170; 1992, c. 1, s. 180; 1995, c. 1, s. 170; 1995, c. 63, s. 261; 1996, c. 39, s. 254; 1997, c. 3, s. 71; 2017, c. 29, s. 200.

TITLE IV INTEREST

Interest on unpaid tax.

1037. Any tax that is unpaid by a taxpayer on the taxpayer's balance-due day for the year shall bear interest at the rate fixed under section 28 of the Tax Administration Act (chapter A-6.002), from the taxpayer's balance-due day to the day of payment.

History: 1972, c. 23, s. 762; 1972, c. 26, s. 73; 1993, c. 19, s. 132; 1997, c. 31, s. 121; 2010, c. 31, s. 175.

Corresponding Federal Provision: 161(1) and (11).

1037.1. *(Repealed).*

History: 1988, c. 4, s. 126; 1997, c. 31, s. 122; 1998, c. 16, s. 237.

Interest.

1038. In addition to the interest payable under section 1037, the taxpayer liable to make a payment under sections 1025 to 1027 shall pay interest, on every payment or part of a payment which he has not made on or before the date of expiry of the time granted for making it, at the rate fixed in section 28 of the Tax Administration Act (chapter A-6.002), for the period extending from that date to the day of payment or to the day when he becomes liable to pay interest under section 1037, whichever is earlier.

Payments deemed owed.

For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1025 is deemed to have been liable to make a payment based on the least of

(a) the amount by which the tax payable by the individual for the particular year, determined without reference to the specified tax consequences for the particular year, section 313.11 and Chapter II.1 of Title VI of Book III, but with reference to the amount that the individual could deduct from the individual's tax otherwise payable for the year under section 776.41.5 if the individual's eligible spouse for the year were not required to include an amount in computing income for the year under section 313.11, exceeds the aggregate of

i. the aggregate of all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for the particular year,

ii. the aggregate of all amounts the individual is deemed under Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year, except any such amounts the individual is deemed to have paid under Divisions II to II.3.0.1, II.5.1, II.5.2, II.6.4 to II.6.4.3, II.6.5.2, II.11.1, II.12.1, II.13 if tax is payable by the individual for the particular year under Part I.3.2, II.17.1 and II.27 of that chapter and sections 1029.9.2 and 1029.9.2.1, and any such amounts in respect of which section 1029.6.0.1.9 applies,

iii. the amount by which the amount the individual is deemed under Division II.11.1 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3,

iv. the amount by which the amount the individual is deemed under Division II.12.1 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3.3, and

v. the amount by which the amount the individual is deemed under Division II.27 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for

the particular year exceeds the individual's tax payable for the particular year under Part I.3.4;

(b) the individual's basic provisional account, established in accordance with the regulations made under section 1025, for the preceding taxation year, reduced by the aggregate of

i. the aggregate of all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for the preceding taxation year,

ii. the aggregate of all amounts the individual is deemed under Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year, except any such amounts the individual is deemed to have paid under Divisions II to II.3.0.1, II.5.1, II.5.2, II.6.4 to II.6.4.3, II.6.5.2, II.11.1, II.12.1, II.13 if tax is payable by the individual for the particular year under Part I.3.2, II.17.1 and II.27 of that chapter and sections 1029.9.2 and 1029.9.2.1, and any such amounts in respect of which section 1029.6.0.1.9 applies,

iii. the amount by which the amount the individual is deemed under Division II.11.1 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3,

iv. the amount by which the amount the individual is deemed under Division II.12.1 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3.3, and

v. the amount by which the amount the individual is deemed under Division II.27 of Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3.4; and

(c) the amount stated to be the payment to be made by the individual for the particular year in the notice sent to the individual by the Minister.

Payments deemed owed.

For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1026 is deemed to have been liable to make payments based on a method described in that section 1026, whichever method gives rise to the least total amount required to be paid for the particular year on or before each of the dates referred to in that section 1026, computed in accordance with that method by reference to

(a) the amount by which the total, on the one hand, of the aggregate of all amounts the individual is deemed under Chapter III.1 of Title III to have paid to the Minister on account of the individual's tax payable for the particular year,

except any such amounts the individual is deemed to have paid under Divisions II to II.3.0.1, II.5.1, II.5.2, II.6.4 to II.6.4.3, II.6.5.2, II.11.1, II.12.1, II.13 if tax is payable by the individual for the particular year under Part I.3.2, II.17.1 and II.27 of that chapter and sections 1029.9.2 and 1029.9.2.1, and any such amounts in respect of which section 1029.6.0.1.9 applies, and, on the other hand, of the aggregate of the amount by which the amount the individual is deemed under Division II.11.1 of that chapter to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3, the amount by which the amount the individual is deemed under Division II.12.1 of that chapter to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3.3 and the amount by which the amount the individual is deemed under Division II.27 of that chapter to have paid to the Minister on account of the individual's tax payable for the particular year exceeds the individual's tax payable for the particular year under Part I.3.4, is exceeded by any of the following amounts:

i. the tax payable by the individual for the particular year, determined without reference to the specified tax consequences for the particular year, section 313.11 and Chapter II.1 of Title VI of Book III, but with reference to the amount that the individual could deduct from the individual's tax otherwise payable for the year under section 776.41.5 if the individual's eligible spouse for the year were not required to include an amount in computing income for the year under section 313.11, reduced by all amounts deducted or withheld under section 1015, without reference to section 1017.2, in respect of the individual's income for the particular year,

ii. the individual's basic provisional account, established in accordance with the regulations made under section 1026, for the preceding taxation year, reduced by all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for the preceding taxation year, and

iii. the individual's basic provisional account, established in accordance with the regulations made under section 1026, for the second preceding taxation year, reduced by all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for the second preceding taxation year and the individual's basic provisional account, established in the same manner, for the preceding taxation year, reduced by all amounts deducted or withheld under section 1015, but without reference to section 1017.2, in respect of the individual's income for that preceding taxation year; or

(b) the amounts stated to be the amounts of instalments payable by the individual for the particular year in the notices sent to the individual by the Minister.

Payments deemed owed.

For the purposes of this section and section 1040, any corporation required to make a payment for a taxation year under section 1027 is deemed to have been liable to make payments based on a method described in subparagraph *a* of the first paragraph of the said section 1027, whichever method gives rise to the least total amount required to be paid for the year on or before each of the dates referred to in the latter subparagraph, computed in accordance with that method by reference to

(a) the tax payable by the corporation for the year, determined without reference to the specified tax consequences for the year, or the corporation's first basic provisional account, within the meaning of the regulations under subparagraph *i* of the said subparagraph, for the year; or

(b) its second basic provisional account, within the meaning of the regulations under subparagraph *ii* of the said subparagraph, for the year and its first basic provisional account, within the meaning of the regulations under subparagraph *i* of the said subparagraph, for the year.

Exception.

Notwithstanding the first paragraph, a corporation referred to in the sixth paragraph shall not be liable under this section, in respect of the aggregate of all amounts each of which is a payment it is required to make for the year under section 1027, for an amount of interest that is greater than the amount for which it would be liable for the year, in respect of that aggregate, if it had been a qualified corporation, within the meaning of section 737.18.18, for the year.

Interpretation.

The corporation to which the fifth paragraph refers is a corporation that is not a qualified corporation, for the purposes of Title VII.2.4 of Book IV, for the year and

(a) would be such a qualified corporation for the year, but for section 737.18.23; or

(b) was such a qualified corporation for the preceding taxation year and would be such a qualified corporation for the year, but for section 737.18.23 and if the definition of "qualified corporation" in the first paragraph of that

section 737.18.18 were read without reference to paragraph *c*.

History: 1972, c. 23, s. 763; 1972, c. 26, s. 74; 1973, c. 17, s. 119; 1982, c. 5, s. 186; 1986, c. 15, s. 182; 1986, c. 19, s. 191; 1987, c. 21, s. 74; 1991, c. 8, s. 83; 1992, c. 1, s. 181; 1993, c. 64, s. 172; 1995, c. 1, s. 171; 1995, c. 49, s. 230; 1995, c. 63, s. 212; 1997, c. 3, s. 71; 1997, c. 14, s. 246; 1998, c. 16, s. 238; 1999, c. 83, s. 225; 2000, c. 39, s. 200; 2002, c. 9, s. 120; 2002, c. 40, s. 225; 2002, c. 46, s. 2; 2003, c. 9, s. 369; 2005, c. 1, s. 271; 2007, c. 12, s. 215; 2009, c. 5, s. 487; 2010, c. 5, s. 169; 2010, c. 25, s. 185; 2010, c. 31, s. 175; 2015, c. 36, s. 152; 2017, c. 1, s. 341; 2019, c. 14, s. 425.

Corresponding Federal Provision: 161(2), (4), (4.01) and (4.1).

Maximum interest.

1038.1. Notwithstanding section 1038, the interest payable by a taxpayer under the said section shall not exceed the amount by which the interest that would be payable by the taxpayer under the said section if he had made no payments exceeds the amount obtained by computing interest at the rate fixed under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002) capitalized daily on each payment made by the taxpayer, for the period extending from the day of the payment to the taxpayer's balance-due day.

History: 1988, c. 4, s. 127; 1997, c. 31, s. 123; 2006, c. 13, s. 197; 2010, c. 31, s. 175.

Corresponding Federal Provision: 161(2.2).

Certain amounts deemed to be paid as instalments.

1039. For the purposes of section 1038, any payment made during a taxation year under section 1098 or 1100 by a person not resident in Canada or under section 1101 on his behalf by another person is deemed to have been made by that person not resident in Canada during the year as an instalment of tax on the first day on which he was required under this Part to pay such an instalment for the year.

Where amount deemed paid.

For the purposes of section 1038, the amount deducted by an individual in computing his tax payable under this Part for a taxation year under section 776.17 in respect of his scientific research and experimental development tax credit for the year, within the meaning of paragraph *a* of section 776.6, is deemed to have been paid by the individual on the last day of the year where he filed, according to the modalities of section 1000, his fiscal return under this Part for the year, or on the day on which he files his fiscal return in other cases.

History: 1975, c. 22, s. 238; 1986, c. 15, s. 183; 1997, c. 14, s. 247; 2005, c. 38, s. 290.

Corresponding Federal Provision: 161(8) and (10).

Additional interest.

1040. Every taxpayer required to make a payment pursuant to sections 1025 to 1027 shall, in addition to interest payable under section 1038, pay additional interest at the rate of 10% per annum, for the period for which interest is payable under section 1038, on any unpaid payment or part of a payment.

Restriction.

The first paragraph does not apply where the amount paid by a taxpayer is

(a) where the taxpayer is a corporation, equal to or greater than 90% of the payment the taxpayer was required to make; and

(b) where the taxpayer is an individual, equal to or greater than 75% of the payment the taxpayer was required to make.

History: 1972, c. 23, s. 764; 1972, c. 26, s. 74; 1973, c. 17, s. 120; 1977, c. 26, s. 114; 1986, c. 15, s. 184; 1989, c. 5, s. 215; 1992, c. 31, s. 2; 1993, c. 19, s. 133; 1993, c. 64, s. 173; 2002, c. 46, s. 3; 2003, c. 9, s. 370; 2005, c. 1, s. 272.

Corresponding Federal Provision: 163-1.

Maximum interest.

1040.1. Notwithstanding section 1040, the interest payable by a taxpayer under the said section shall not exceed the amount by which the interest that would be payable by the taxpayer under the said section if he had made no payments exceeds the amount obtained by computing interests at the rate of 10% capitalized daily on each payment made by the taxpayer, for the period extending from the day of the payment to the taxpayer's balance-due day.

History: 1988, c. 4, s. 128; 1989, c. 5, s. 215; 1993, c. 16, s. 336; 1997, c. 31, s. 124.

Corresponding Federal Provision: 163.1.

1041. (Repealed).

History: 1972, c. 23, s. 765; 1993, c. 16, s. 337.

Corresponding Federal Provision: 161(5).

Payments by Canadian Wheat Board.

1042. No interest is exigible from a taxpayer on the amount by which the tax payable is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to the taxpayer, until one month after the payment is made.

History: 1972, c. 23, s. 766.

Corresponding Federal Provision: 161(5).

Tax payable to foreign country.

1042.1. Where the tax payable under this Part by a taxpayer for a particular taxation year is increased because of one of the following operations, no interest is payable, in

respect of the amount of the increase, for the period specified in the second paragraph:

(a) an adjustment of an income or profits tax payable by the taxpayer to the government of a foreign country or political subdivision of a foreign country;

(b) a reduction in the amount of taxes that meet the conditions under subparagraphs *a* to *c* of the first paragraph of section 772.5.2, that is deductible under section 772.6 or 772.8 in computing the taxpayer's tax otherwise payable under this Part for the particular year, as a result of the application of section 772.5.2, or, in the case of a corporation, of subsection 4.2 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in respect of a share or debt obligation disposed of by the taxpayer in the taxation year following the particular year; or

(c) an adjustment of the income tax paid for a taxation year by a designated trust, within the meaning of the first paragraph of section 671.5, to the government of a province, other than Québec, in respect of which the taxpayer deducted, under section 772.15, an amount in computing the taxpayer's tax otherwise payable under this Part for the particular year, other than an adjustment that results from modifications made in computing the designated trust's income.

Period applicable.

The period to which the first paragraph refers is the period

(a) that ends 90 days after the date on which the taxpayer is first notified of the amount of the adjustment, if subparagraph *a* of the first paragraph applies;

(b) before the date of the disposition, if subparagraph *b* of the first paragraph applies; and

(c) that ends 90 days after the date on which the designated trust is first notified of the amount of the adjustment, if subparagraph *c* of the first paragraph applies.

History: 1984, c. 15, s. 235; 2001, c. 53, s. 233; 2004, c. 21, s. 442; 2011, c. 6, s. 208.

Corresponding Federal Provision: 161(6.1).

1042.2. (Repealed).

History: 1995, c. 63, s. 213; 1997, c. 3, s. 71; 2000, c. 39, s. 201.

Where transfer of foreign income impossible.

1043. Where the income of a taxpayer for a taxation year or part thereof is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by that country is unable to transfer it to Canada, the Minister may postpone the time of payment of the whole or part of the tax reasonably attributable to the income from sources in that country for a period which he determines, if

he is satisfied that the payment of the whole tax for the year would impose extreme hardship on the taxpayer; in such case, no interest is exigible on the payment of tax so postponed for the period determined by the Minister.

Restriction.

However, the payment shall not be so postponed if such income has been, in whole or in part, transferred to Canada, used by the taxpayer for any purpose other than the payment of a tax on such income to the government of that country or has been disposed of by him.

History: 1972, c. 23, s. 767.

Corresponding Federal Provision: 161(6).

Effect of carry-back of loss.

1044. Where, for a particular taxation year, a taxpayer is entitled to exclude from the taxpayer's income under sections 294 to 298 an amount in respect of the exercise of an option in a subsequent taxation year, to exclude from the taxpayer's income or to deduct an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in that section, to deduct an amount relating to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b* to *b.1.0.1*, *c* to *d.1.0.0.3*, *d.1.1* and *f* to *h* of section 1012.1, to deduct an amount under any of sections 785.2.2 to 785.2.4 from the proceeds of disposition of a property because of an election made in a fiscal return for a subsequent taxation year or to reduce an amount included in computing the taxpayer's income under section 580 for the particular taxation year because of a reduction referred to in section 1012.2 in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year of the foreign affiliate that ends in the particular taxation year, the tax payable under this Part by the taxpayer for the particular taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay if the consequences of the deduction, exclusion or reduction of those amounts were not taken into account.

Deemed payment on account of tax.

However, the amount by which the tax payable under this Part by the taxpayer for the particular taxation year is reduced as a consequence of the exclusion from the income, the deduction or the reduction, as the case may be, of an amount described in the first paragraph is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to have been paid by the taxpayer on account of the taxpayer's tax payable under this Part for the particular taxation year on the latest of

(a) the day on which an amended fiscal return of the taxpayer or a prescribed form was filed in accordance with any of sections 297, 716.0.1, 752.0.10.15, 1012, 1012.2,

1054, 1055.1.2 and 1055.1.3 so as to exclude from the taxpayer's income, to deduct or to reduce the amount for the particular taxation year;

(b) where, as a consequence of a request in writing, the Minister assessed the taxpayer's tax for the year so as to exclude from his income or deduct the amount for the particular taxation year, the day on which the request was made;

(c) the day immediately following the end of the subsequent taxation year relating to the amount excluded from the taxpayer's income or deducted for the particular taxation year; and

(d) the day on which the taxpayer or his legal representative files his fiscal return under this Part for the subsequent taxation year referred to in subparagraph *c*.

History: 1972, c. 23, s. 768; 1983, c. 49, s. 16; 1985, c. 25, s. 152; 1986, c. 19, s. 192; 1987, c. 67, s. 187; 1988, c. 4, s. 129; 1991, c. 25, s. 169; 1993, c. 64, s. 174; 1995, c. 63, s. 214; 1997, c. 31, s. 125; 2000, c. 5, s. 275; 2002, c. 46, s. 4; 2004, c. 8, s. 181; 2005, c. 23, s. 230; 2005, c. 38, s. 291; 2007, c. 12, s. 216; 2009, c. 15, s. 357; 2011, c. 34, s. 108; 2015, c. 36, s. 153; 2017, c. 1, s. 342.

Corresponding Federal Provision: 161(7).

Inclusion of an amount.

1044.0.1. Where, for a particular taxation year, a taxpayer has included an amount in computing his income by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in either of those sections, his tax payable under this Part for the particular taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay had he not been entitled to so include that amount.

Tax increase.

However, the amount by which the taxpayer's tax payable under this Part for the particular taxation year is increased by reason of the inclusion of an amount described in the first paragraph is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to have so increased the taxpayer's tax payable under this Part for the particular taxation year, from the taxpayer's filing-due date for the subsequent taxation year.

History: 1995, c. 63, s. 215; 1997, c. 3, s. 71; 1997, c. 31, s. 143.

Flow-through share renunciations.

1044.0.2. Where the tax payable under this Part by a taxpayer for a taxation year is more than it otherwise would be because of a consequence for the year, described in paragraph *b* of the definition of "specified tax consequence" in section 1, in respect of an amount purported to be

renounced in a calendar year by a corporation, for the purposes of the provisions of this Part, other than this section, relating to a determination of interest payable under this Part, an amount equal to the additional tax payable is deemed

(a) to have been paid on the taxpayer's balance-due day for the taxation year as partial payment of the taxpayer's tax payable under this Part for the year; and

(b) to be an excess amount referred to in section 32 of the Tax Administration Act (chapter A-6.002) that has been refunded to the taxpayer on account of the taxpayer's tax payable under this Part for the taxation year,

i. if section 359.8.1 applies in respect of expenses that the corporation incurred in the calendar year that follows that in which the corporation is purported to have renounced the amount, on 30 April of the calendar year that follows that subsequent calendar year, and

ii. in any other case, on 30 April of the calendar year that follows that in which the corporation is purported to have renounced the amount.

History: 1998, c. 16, s. 239; 2009, c. 5, s. 488; 2010, c. 31, s. 175.

Corresponding Federal Provision: 161(6.2).

1044.1. (*Repealed*).

History: 1989, c. 5, s. 216; 1994, c. 22, s. 326.

TITLE IV.1

OFFSET OF REFUND INTEREST AND ARREARS INTEREST

Definitions:

1044.2. In this Title,

“accumulated overpayment amount”;

“accumulated overpayment amount” of a corporation for a period means the aggregate of the overpayment amount of the corporation for the period and the refund interest that accrued in respect of the overpayment amount before the effective date for the allocation specified under paragraph *b* of section 1044.4 by the corporation in its allocation application for the period;

“accumulated underpayment amount”;

“accumulated underpayment amount” of a corporation for a period means the aggregate of the underpayment amount of the corporation for the period and the arrears interest that accrued in respect of the underpayment amount before the effective date for the allocation specified under paragraph *b* of section 1044.4 by the corporation in its allocation application for the period;

“arrears interest”;

“arrears interest” means interest computed under section 1037 or paragraph *b* of section 1044.6;

“overpayment amount”;

“overpayment amount” of a corporation for a period means the amount referred to in subparagraph i of paragraph *a* of section 1044.3 that is refunded to the corporation or the amount referred to in subparagraph ii of paragraph *a* of section 1044.3 to which the corporation is entitled, other than an amount withheld by the Minister under section 30.1 of the Tax Administration Act (chapter A-6.002);

“refund interest”;

“refund interest” means interest computed under section 1052;

“underpayment amount”.

“underpayment amount” of a corporation for a period means the amount referred to in paragraph *b* of section 1044.3 that is payable by the corporation, on which arrears interest is computed.

History: 2001, c. 53, s. 234; 2004, c. 4, s. 12; 2004, c. 21, s. 443; 2010, c. 31, s. 175.

Corresponding Federal Provision: 161.1(1).

Written application for an allocation.

1044.3. A corporation may apply in writing to the Minister for the allocation of an accumulated overpayment amount for a period that begins after 31 December 1999 on account of an accumulated underpayment amount for the period if, in respect of tax paid or payable by the corporation under this Part or Parts III.0.1 to III.3, III.6 to III.11, III.14 or VI.2 to VII or tax paid or payable by the corporation under Part IV, IV.1, VI or VI.1,

(a) refund interest for the period

i. is computed on an amount refunded to the corporation, or

ii. would be computed on an amount to which the corporation is entitled, other than an amount withheld by the Minister under section 30.1 of the Tax Administration Act (chapter A-6.002), if that amount were refunded to the corporation; and

(b) arrears interest for the period is computed on an amount that is payable by the corporation.

History: 2001, c. 53, s. 234; 2004, c. 4, s. 13; 2004, c. 21, s. 444; 2010, c. 31, s. 175; 2013, c. 10, s. 143.

Corresponding Federal Provision: 161.1(2).

Conditions of validity of an application for an allocation.

1044.4. A corporation's allocation application referred to in section 1044.3 for a period is deemed not to have been made unless

(a) it specifies the amount to be allocated, which shall not exceed the lesser of the corporation's accumulated overpayment amount for the period and its accumulated underpayment amount for the period;

(b) it specifies the effective date for the allocation, which shall not be earlier than the latest of

i. the date from which refund interest is computed on the corporation's overpayment amount for the period, or would be so computed if the overpayment amount were refunded to the corporation,

ii. the date from which arrears interest is computed on the corporation's underpayment amount for the period, and

iii. 1 January 2000; and

(c) it is made on or before the day that is 90 days after the latest of

i. the day of sending of the first notice of assessment giving rise to any portion of the corporation's overpayment amount to which the application relates,

ii. the day of sending of the first notice of assessment giving rise to any portion of the corporation's underpayment amount to which the application relates,

iii. if the corporation has filed a notice of objection to an assessment referred to in subparagraph i or ii, the day of mailing of the Minister's decision under section 93.1.6 of the Tax Administration Act (chapter A-6.002) in respect of the notice of objection,

iv. if the corporation has filed a contestation with or brought an appeal before a court of competent jurisdiction regarding an assessment referred to in subparagraph i or ii, or has applied for leave to file a contestation or bring an appeal regarding such an assessment before such a court, the day on which the court dismisses the application, the day on which the corporation discontinues its application, contestation or appeal or the day on which final judgment is rendered on the contestation or the appeal,

v. the day of sending of the first notice to the corporation indicating that the Minister has determined any portion of the corporation's overpayment amount to which the application relates, if the overpayment amount has not been determined as a result of a notice of assessment sent before that day, and

vi. 1 April 2001.

History: 2001, c. 53, s. 234; 2004, c. 4, s. 14; 2010, c. 31, s. 175; I.N. 2016-01-01 (NCCP); 2020, c. 12, s. 126.

Corresponding Federal Provision: 161.1(3).

Deemed refund and payment.

1044.5. The amount to be allocated that is specified by a corporation under paragraph *a* of section 1044.4 is deemed to have been refunded to the corporation and paid on account of an accumulated underpayment amount on the effective date

for the allocation specified by the corporation under paragraph *b* of section 1044.4.

History: 2001, c. 53, s. 234.

Corresponding Federal Provision: 161.1(4).

Allocation of an amount refunded.

1044.6. If an allocation application in respect of a period is made by a corporation under section 1044.3 and a portion of the amount to be allocated has been refunded to the corporation, the following rules apply:

(a) a particular amount equal to the aggregate of the following amounts is deemed to have become payable by the corporation on the day on which the portion of the amount to be allocated was refunded to the corporation:

i. the portion of the amount to be allocated that was refunded to the corporation, and

ii. refund interest paid or credited to the corporation in respect of the portion of the amount to be allocated that was refunded to the corporation; and

(b) the corporation shall pay interest at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002) on the particular amount referred to in paragraph *a* from the day referred to in that paragraph to the date of payment.

History: 2001, c. 53, s. 234; 2010, c. 31, s. 175.

Corresponding Federal Provision: 161.1(5).

Indirect allocation.

1044.7. If a particular allocation of an accumulated overpayment amount under section 1044.5 results in a new accumulated overpayment amount of the corporation for a period, the new accumulated overpayment amount shall not be allocated under this Title unless the corporation so applies in its allocation application for the particular allocation.

History: 2001, c. 53, s. 234.

Corresponding Federal Provision: 161.1(6).

Assessment.

1044.8. Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties payable by the corporation as are necessary for any taxation year to take into account the allocation of amounts under this Title.

History: 2001, c. 53, s. 234.

Corresponding Federal Provision: 161.1(7).

**TITLE V
PENALTIES**

**CHAPTER I
FALSE STATEMENTS OR OMISSIONS**

Penalty for failure to file a return.

1045. Every person who fails to make a fiscal return on the prescribed form and within the prescribed time, in accordance with section 1000, 1001, 1003 or 1004, incurs a penalty equal to 5% of the tax unpaid at the time when the return must be filed and an additional penalty of 1% of that unpaid tax for each complete month, not exceeding 12 months, in the period that begins at the time the return must be filed and ends at the time it is actually filed.

Unpaid tax reduced from refund.

For the purposes of the first paragraph, the unpaid tax of an individual shall be reduced by the amount of reimbursement or refund to which the individual is entitled for the year under section 220.3 of the Act respecting municipal taxation (chapter F-2.1), section 78 of the Act respecting the Québec Pension Plan (chapter R-9), section 70 of the Act respecting parental insurance (chapter A-29.011), the Act respecting property tax refund (chapter R-20.1) and section 358 of the Act respecting the Québec sales tax (chapter T-0.1) and for the following year under section 210.7 of the Act respecting municipal taxation.

History: 1972, c. 23, s. 769; 1979, c. 38, s. 26; 1982, c. 5, s. 187; 1983, c. 49, s. 17; 1990, c. 7, s. 171; 1992, c. 31, s. 3; 1993, c. 64, s. 175; 1994, c. 22, s. 327; 1997, c. 14, s. 248; 1999, c. 40, s. 258; 2001, c. 9, s. 129; O.C. 984-2005; 2002, c. 46, s. 5; 2004, c. 21, s. 445; 2017, c. 1, s. 343; 2019, c. 14, s. 426.

Interpretation Bulletins: IMP. 128-11/R3; IMP. 1045-1/R3.

Corresponding Federal Provision: 162(1).

Inclusion of an amount.

1045.0.1. Despite section 1045, where the failure referred to in that section results solely from the inclusion, in computing an individual's income for a particular taxation year, of an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 752.0.10.11.1 by a donee referred to in that section, and by reason of the designation, referred to in subparagraph *b* of the first paragraph of section 752.0.10.13, of an amount in relation to the particular taxation year, the penalty of 5% provided for in the first paragraph of section 1045 applies to the tax unpaid on the individual's filing-due date for the subsequent taxation year in which the disposition was made and the penalty of 1% provided for in that first paragraph applies to that unpaid tax for each complete month, not exceeding 12 months, in the period that begins on that filing-due date and ends at the time the fiscal return referred to in section 1045 is actually filed.

History: 1995, c. 63, s. 216; 1997, c. 31, s. 126; 2009, c. 5, s. 489; 2019, c. 14, s. 427.

Interpretation Bulletins: IMP. 1043-1/R3.

Failure to provide claim preparer information.

1045.0.1.1. Every person or partnership who makes, or participates in, assents to or acquiesces in the making of, a false statement or omission in respect of information relating to a claim preparer required to be included in a scientific research and experimental development form solidarily incurs, together with the claim preparer, a penalty of \$1,000.

Penalties non-cumulative.

However, a person or partnership, as the case may be, may not incur, in respect of the same false statement or omission, both the penalty provided for in the first paragraph and the penalty provided for in section 59.0.2 of the Tax Administration Act (chapter A-6.002).

History: 2015, c. 21, s. 495.

Due diligence.

1045.0.1.2. A claim preparer of a scientific research and experimental development form does not incur the penalty provided for in section 1045.0.1.1 in respect of a false statement or omission if the claim preparer has exercised the degree of care, diligence and skill to prevent the making of the false statement or omission that a reasonably prudent person would have exercised in comparable circumstances.

History: 2015, c. 21, s. 495.

Definitions:

1045.0.1.3. For the purposes of this section and sections 1045.0.1.1 and 1045.0.1.2,

“claim preparer”;

“claim preparer”, of a scientific research and experimental development form, means a person or partnership who agrees to accept consideration to prepare or assist in the preparation of the form, but does not include an employee who prepares or assists in the preparation of the form in the course of performing the duties of the employee's employment;

“claim preparer information”;

“claim preparer information” means prescribed information regarding

(a) the identity of the claim preparer of a scientific research and experimental development form; and

(b) the arrangement under which the claim preparer agrees to accept consideration in respect of the preparation of the scientific research and experimental development form;

“scientific research and experimental development form”.

“scientific research and experimental development form” means the prescribed form required to be filed under section 230.0.0.4.1.

History: 2015, c. 21, s. 495.

Rules — penalty incurred by a partnership.

1045.01.4. Where a partnership incurs a penalty under section 1045.0.1.1, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2015, c. 21, s. 495.

1045.0.2. (*Repealed*).

History: 2005, c. 1, s. 273; 2007, c. 12, s. 217.

1045.1. (*Repealed*).

History: 1989, c. 5, s. 217; 1994, c. 22, s. 328.

1045.2. (*Repealed*).

History: 1992, c. 1, s. 182; 1997, c. 3, s. 71; 2002, c. 46, s. 6.

1046. (*Repealed*).

History: 1972, c. 23, s. 770; 2001, c. 7, s. 148; 2002, c. 46, s. 6.

1047. (*Repealed*).

History: 1972, c. 23, s. 771; 1990, c. 59, s. 346.

1048. (*Repealed*).

History: 1972, c. 23, s. 780; 1983, c. 49, s. 18.

False statements or omissions.

1049. Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in or acquiesced in the making of, a false statement or omission in a return, certificate, statement or answer, in this section referred to as a “return”, made or filed in respect of a taxation year for the purposes of this Act, incurs a penalty equal to the greater of \$100 and 50% of the amount by which

(a) the aggregate of

i. the tax for the year that would be payable by the person under this Act if

(1) the person’s taxable income for the year, determined on the basis of the information provided in the return, were computed by adding that portion of the amount determined in the second paragraph that may reasonably be attributed to the false statement or omission, and

(2) the person’s taxable income for the year were computed by subtracting from the aggregate of all deductions from the tax otherwise payable by the person for the year such portion of any such deduction as may reasonably be attributed to the false statement or omission, and by adding to that aggregate any amount not deducted from the tax otherwise payable by the person for the year and that is deductible under Book V, if the amount that entitles the person to that deduction is wholly

applicable to an amount that was not reported by the person in the return and that was required to be included in computing the person’s income for the year, and

ii. the amount that would be deemed under Divisions II to III of Chapter III.1 of Title III, except Division II.11.2 of that Chapter III.1, to have been paid for the year by the person to the Minister had that amount been determined on the basis of the information provided in the person’s return for the year; exceeds

(b) the aggregate of

i. the tax for the year that would have been payable by the person under this Act had it been determined on the basis of the information provided in the person’s return for the year, and

(ii) the amount that would be deemed under Divisions II to III of Chapter III.1 of Title III, except Division II.11.2 of that Chapter III.1, to have been paid for the year by the person to the Minister had that amount been determined on the basis of the information provided in the person’s return for the year but without reference to the false statement or omission.

Computation of penalty.

The amount to which subparagraph 1 of subparagraph i of subparagraph a of the first paragraph refers in respect of the person is the aggregate of

(a) the amount by which the aggregate of the amounts that were not reported by the person in the return and that were required to be included in computing the person’s income for the year exceeds the aggregate of

i. the aggregate of the amounts, other than those provided for in section 130, that were not deducted by the person in computing the person’s income for the year reported by the person in the return, were deductible by the person in computing the person’s income under this Act and were wholly attributable to the amounts that were required to be so included in computing the person’s income, and

ii. the aggregate of the amounts that were not deducted by the person in computing the person’s taxable income for the year reported by the person in the return, were deductible by the person in computing the person’s taxable income under this Act and consist specifically in all or a fraction of the portion of the person’s income for the year represented by the amounts that were required to be so included in computing the person’s taxable income;

(b) the amount by which the aggregate of amounts deducted by him in computing his income for the year indicated by him in his return exceeds the aggregate of such amounts deductible in computing such income under this Act; and

(c) the amount by which the aggregate of amounts, other than those provided for in sections 727 to 737, deducted by him in computing his taxable income for the year indicated by him in his return exceeds the aggregate of amounts, other than those provided for in sections 727 to 737, deductible in computing his taxable income for the year under this Act.

Interpretation.

For the purposes of the first paragraph, the taxable income of a person for a taxation year, determined on the basis of the information provided in the person's return, is deemed not to be less than nil.

Rules applicable.

For the purpose of determining the amount referred to in the second paragraph in respect of a person for a taxation year, the following rules apply:

(a) the amount otherwise deductible under Division IV of Chapter IV of Title IV of Book III in respect of the person's precious property loss for a subsequent taxation year is deemed not to be deductible in computing the person's income for the year;

(b) the amount that may otherwise be excluded from the person's income by reason of Division XI of Chapter IV of Title IV of Book III in respect of the exercise of any option in a subsequent taxation year is deemed not to be excluded from the person's income for the year;

(b.1) any amount that may otherwise be deducted under section 965.0.3 in computing the person's income for the year because of the application of section 965.0.4.1 as a consequence of the person's death in the subsequent taxation year, is deemed not to be deductible in computing the person's income for the year;

(c) the amount otherwise deductible in computing the person's income for the year because of subparagraph *a* or *b* of the first paragraph of section 1054 or section 1055.1.2 or 1055.1.3 is deemed not to be deductible in computing the person's income for the year.

History: 1972, c. 23, s. 773; 1978, c. 26, s. 206; 1979, c. 18, s. 72; 1990, c. 59, s. 347; 1993, c. 16, s. 338; 2000, c. 5, s. 276; 2000, c. 39, s. 202; 2001, c. 7, s. 149; 2001, c. 51, s. 201; 2003, c. 9, s. 371; 2005, c. 1, s. 274; 2005, c. 38, s. 292; 2006, c. 13, s. 198; 2007, c. 12, s. 218; 2009, c. 5, s. 490; 2011, c. 34, s. 109; 2017, c. 1, s. 344 [amended by 2019, c. 14, s. 616].

Interpretation Bulletins: LAF. 95-1/R2; IMP. 128-11/R3 .

Corresponding Federal Provision: 163(2)(a), (2.1)(a) to (c) and (4).

False statement or omission.

1049.0.1. Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement

or omission in any renunciation that was to have been effective at a particular time and that is purported to have been made under section 359.2, 359.2.1, 359.4, 381, 406, 417 or 418.13, otherwise than because of the application of section 359.8, incurs a penalty of 25% of the amount by which the amount set out in the renunciation in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses exceeds the amount in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the applicable section to renounce as of that particular time.

Application.

In the first paragraph, a reference to section 381, 406, 417 or 418.13 is a reference to that section as it read in respect of the renunciation.

History: 1988, c. 18, s. 117; 1995, c. 49, s. 231; 1997, c. 3, s. 71; 1998, c. 16, s. 240.

Interpretation Bulletins: LAF. 95-1/R2.

Corresponding Federal Provision: 163(2.2).

False statement or omission with respect to look-back rule.

1049.0.1.0.1. Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in a statement required to be filed under section 359.15 in respect of a renunciation purported to have been made because of the application of section 359.8 or who fails to file the statement on or before the day that is 24 months after the day on or before which it was required to be filed incurs, in addition to the penalty under section 59 of the Tax Administration Act (chapter A-6.002), a penalty equal to 25% of the amount by which the portion of the excess referred to in section 359.15 that was known or that ought to have been known by the person, exceeds

(a) where this section applies otherwise than because of the person's failure to file the statement on or before the day that is 24 months after the day on or before which it was required to be filed, the portion of the excess referred to in section 359.15 that is identified in the statement; and

(b) in any other case, zero.

History: 1998, c. 16, s. 241; 2010, c. 31, s. 175.

Interpretation Bulletins: LAF. 95-1/R2.

Corresponding Federal Provision: 163(2.21) and (2.22) (part).

False statements or omissions.

1049.0.1.1. Every person who, knowingly or under circumstances amounting to gross negligence, makes, or participates or acquiesces in the making of, a false statement

or omission in a prescribed form required to be filed under section 359.11.1 or 359.12.0.1 incurs a penalty of 25% of the amount by which the assistance required to be reported in respect of a person or partnership in the prescribed form exceeds the assistance reported in the prescribed form in respect of the person or partnership, as the case may be.

History: 1993, c. 16, s. 339; 1997, c. 3, s. 71.

Interpretation Bulletins: LAF. 95-1/R2.

Corresponding Federal Provision: 163(2.3).

1049.0.2. (*Repealed*).

History: 1990, c. 59, s. 348; 1993, c. 19, s. 134; 1999, c. 83, s. 226; 2000, c. 5, s. 277.

Interpretation Bulletins: LAF. 95-1/R2.

CHAPTER II
MISREPRESENTATION OF A TAX MATTER BY A
THIRD PARTY

Definitions:

1049.0.3. In this chapter,

“culpable conduct”;

“culpable conduct” means an act or a failure to act that

(a) is tantamount to intentional conduct;

(b) shows indifference towards compliance with this Act, the Cooperative Investment Plan Act (chapter R-8.1.1) or the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) where it applies in respect of the deduction in respect of the second cooperative investment plan, within the meaning assigned to that expression by section 5.1 of Schedule C to that Act; or

(c) shows a wilful, reckless or wanton disregard of this Act, of the Cooperative Investment Plan Act or the Act respecting the sectoral parameters of certain fiscal measures where it applies in respect of the deduction in respect of the second cooperative investment plan, within the meaning assigned to that expression by section 5.1 of Schedule C to that Act;

“false statement”;

“false statement” includes a statement that is misleading because of an omission from the statement;

“gross compensation”;

“gross compensation” of a particular person at any time, in respect of a false statement that could be used by or on behalf of another person, means all amounts that the particular person, or any person not dealing at arm’s length with the particular person, is entitled, either absolutely or contingently and either before or after that time, to receive or to obtain in respect of the statement;

“person”;

“person” includes a partnership;

“subordinate”.

“subordinate”, in respect of a particular person, includes any other person over whose activities the particular person has

direction, supervision or control whether or not the other person is an employee of the particular person or of another person.

Application of the definition of “subordinate”.

For the purposes of the definition of “subordinate” in the first paragraph, if the particular person is a member of a partnership, the other person is not a subordinate of the particular person solely because the particular person is a member of the partnership.

History: 2001, c. 51, s. 202; 2006, c. 37, s. 41; 2012, c. 1, s. 64.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(1).

Participation of a person to a false statement.

1049.0.4. For the purposes of this chapter, any reference to a person’s participation includes

(a) the fact of causing a subordinate to act or to omit information; and

(b) the fact of knowing of, and not making a reasonable attempt to prevent, the participation of a subordinate in an act or an omission of information.

History: 2001, c. 51, s. 202.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(1) “participate”.

Penalty for false statement.

1049.0.5. Every person who makes a statement to another person or assents to, acquiesces in or participates in the making of a statement by or on behalf of the other person, that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by or on behalf of the other person for a purpose of this Act, except sections 965.39.1 to 965.39.7 incurs a penalty in respect of the false statement equal to the greater of \$1,000 and the lesser of

(a) the penalty that the other person would incur under section 1049 if the other person had made the statement in a return filed for the purposes of this Act, except sections 965.39.1 to 965.39.7, and had known that the statement was false; and

(b) the aggregate of \$100,000 and the person’s gross compensation, at the time the notice of assessment of the penalty is sent to the person, in respect of the false statement that could be used by or on behalf of the other person.

History: 2001, c. 51, s. 202; 2001, c. 53, s. 235; 2006, c. 37, s. 42; 2011, c. 1, s. 95.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(4) and (5).

Other penalty.

1049.0.5.1. Every person who makes a statement to another person or assents to, acquiesces in or participates in the making of a statement by or on behalf of the other person, that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by or on behalf of the other person for a purpose of the Cooperative Investment Plan Act (chapter R-8.1.1), of the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) where it applies in respect of the deduction in respect of the second cooperative investment plan, within the meaning assigned to that expression by section 5.1 of Schedule C to that Act or of sections 965.39.1 to 965.39.7 incurs a penalty in respect of the false statement equal to,

(a) if the statement is made in the course of planning, selling or promoting an arrangement in relation to the application of the Cooperative Investment Plan Act, the greater of \$1,000 and the person's gross compensation, at the time the notice of assessment of the penalty is sent to the person, in respect of the false statement that could be used by or on behalf of the other person; and

(b) in any other case, \$1,000.

History: 2006, c. 37, s. 43; 2011, c. 1, s. 96; 2012, c. 1, s. 65.

Interpretation Bulletins: LAF. 95-1/R2.

Advisor acting in good faith.

1049.0.6. For the purposes of sections 1049.0.5 and 1049.0.5.1, a person (in this section referred to as the "advisor") who acts on behalf of the other person referred to in either of those sections is not considered to have acted in circumstances amounting to culpable conduct in respect of the false statement referred to in either of those sections solely because the advisor relied, in good faith, on information provided to the advisor by or on behalf of the other person or, because of such reliance, failed to verify, correct or investigate the information.

History: 2001, c. 51, s. 202; 2006, c. 37, s. 44; 2011, c. 1, s. 97.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(6).

Clerical or secretarial services.

1049.0.7. For the purposes of this chapter, a person is not considered to have made or furnished, or assented to, acquiesced in or participated in the furnishing of a false statement solely because the person provided clerical services, other than bookkeeping services, or secretarial services in respect of the statement.

History: 2001, c. 51, s. 202.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(9).

Adjustment of amount of gross compensation.

1049.0.8. For the purposes of this chapter, if a person is assessed a penalty that is referred to in section 1049.0.5 or 1049.0.5.1, the person's gross compensation at any time in respect of the false statement that could be used by or on behalf of the other person referred to in that section does not include the aggregate of all amounts each of which is the amount of a penalty, other than a penalty the assessment of which is deemed to be null because of section 1049.0.9, determined under section 1049.0.5 or 1049.0.5.1, to the extent that the false statement was used by or on behalf of that other person, and for which a notice of assessment was sent to the person before that time.

History: 2001, c. 51, s. 202; 2006, c. 37, s. 45; 2011, c. 1, s. 98.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(12)(c).

Assessment deemed null.

1049.0.9. For the purposes of this Act, if an assessment of a penalty under section 1049.0.5 or 1049.0.5.1 is vacated, the assessment is deemed to be null from the time it was made.

History: 2001, c. 51, s. 202; 2006, c. 37, s. 46.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(13).

Person working for another person.

1049.0.10. If an employee, other than a specified employee, works for the other person referred to in section 1049.0.5 or 1049.0.5.1, the following rules apply:

(a) sections 1049.0.5 and 1049.0.5.1 do not apply to the employee to the extent that the false statement could be used by or on behalf of the other person for a purpose of this Act; and

(b) the conduct of the employee is deemed to be that of the other person for the purpose of applying section 1049 to the other person.

History: 2001, c. 51, s. 202; 2004, c. 21, s. 446; 2006, c. 37, s. 47; 2011, c. 1, s. 99.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163.2(15).

Penalty imposed on a partnership under section 1049.0.5 or 1049.0.5.1.

1049.0.11. Where a partnership incurs a penalty under section 1049.0.5 or 1049.0.5.1, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2001, c. 51, s. 202; 2006, c. 37, s. 48; 2010, c. 31, s. 175; 2017, c. 1, s. 345.

Interpretation Bulletins: IMP. 1049.0.5-1; LAF. 95-1/R2.

Corresponding Federal Provision: 163(2.9).

CHAPTER III
OTHER PENALTIES AND THEIR APPLICATION

1049.1. *(Repealed).*

History: 1979, c. 14, s. 5; 1983, c. 44, s. 44; 1985, c. 25, s. 153; 1986, c. 15, s. 185; 1987, c. 21, s. 75; 1988, c. 4, s. 130; 1990, c. 7, s. 172; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.0.1. *(Repealed).*

History: 1990, c. 7, s. 173; 1997, c. 3, s. 71; 1997, c. 85, s. 276; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.0.2. *(Repealed).*

History: 1990, c. 7, s. 173; 1997, c. 3, s. 71; 1997, c. 85, s. 276; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.0.3. *(Repealed).*

History: 1992, c. 1, s. 183; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.0.4. *(Repealed).*

History: 1992, c. 1, s. 183; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.0.5. *(Repealed).*

History: 1992, c. 1, s. 183; 1993, c. 64, s. 176; 1997, c. 3, s. 71; 2003, c. 9, s. 372; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.1. *(Repealed).*

History: 1988, c. 4, s. 130; 1990, c. 7, s. 174; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.2. *(Repealed).*

History: 1990, c. 7, s. 175; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.3. *(Repealed).*

History: 1992, c. 1, s. 184; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.4. *(Repealed).*

History: 1997, c. 85, s. 277; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2001, c. 7, s. 169; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.1.4.1. *(Repealed).*

History: 1999, c. 83, s. 227; 2001, c. 7, s. 169; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2. *(Repealed).*

History: 1986, c. 15, s. 185; 1987, c. 21, s. 76; 1988, c. 4, s. 131; 1990, c. 7, s. 176; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.0.1. *(Repealed).*

History: 1990, c. 7, s. 177; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.0.2. *(Repealed).*

History: 1992, c. 1, s. 185; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.1. *(Repealed).*

History: 1987, c. 21, s. 76; 1988, c. 4, s. 132; 1989, c. 5, s. 218; 1997, c. 3, s. 71; 2003, c. 9, s. 373.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2. *(Repealed).*

History: 1987, c. 21, s. 76; 1988, c. 4, s. 132; 1989, c. 5, s. 219; 1997, c. 3, s. 71; 2003, c. 9, s. 373.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.0.1. *(Repealed).*

History: 1989, c. 5, s. 220; 1990, c. 7, s. 178; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.1. *(Repealed).*

History: 1988, c. 4, s. 132; 1989, c. 5, s. 221; 1990, c. 7, s. 179; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.2. *(Repealed).*

History: 1988, c. 4, s. 132; 1989, c. 5, s. 222; 1990, c. 7, s. 180; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.3. *(Repealed).*

History: 1988, c. 4, s. 132; 1992, c. 1, s. 186; 1997, c. 3, s. 71; 2003, c. 9, s. 374; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.4. *(Repealed).*

History: 1988, c. 4, s. 132; 1992, c. 1, s. 187; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.5. *(Repealed).*

History: 1988, c. 4, s. 132; 1989, c. 5, s. 223; 1990, c. 7, s. 181; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.5.1. *(Repealed).*

History: 1992, c. 1, s. 188; 1997, c. 3, s. 71; 1997, c. 85, s. 278; 1999, c. 83, s. 228; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.5.2. *(Repealed).*

History: 1992, c. 1, s. 188; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.5.3. *(Repealed).*

History: 1997, c. 85, s. 279; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.5.4. *(Repealed).*

History: 1997, c. 85, s. 279; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.6. *(Repealed).*

History: 1988, c. 4, s. 132; 1997, c. 3, s. 71; 2001, c. 7, s. 150; 2003, c. 9, s. 375; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.7. *(Repealed).*

History: 1988, c. 4, s. 132; 1989, c. 5, s. 224; 1997, c. 3, s. 71; 2001, c. 7, s. 151; 2003, c. 9, s. 376; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.8. *(Repealed).*

History: 1988, c. 4, s. 132; 1997, c. 3, s. 71; 2003, c. 9, s. 377; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.9. *(Repealed).*

History: 1988, c. 4, s. 132; 1990, c. 7, s. 182; 1997, c. 3, s. 71; 2003, c. 9, s. 378; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.10. *(Repealed).*

History: 1988, c. 4, s. 132; 1989, c. 5, s. 225; 1990, c. 7, s. 183; 1992, c. 1, s. 189; 1997, c. 3, s. 71; 1997, c. 85, s. 280; 2003, c. 9, s. 379; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.2.11. *(Repealed).*

History: 1990, c. 7, s. 184; 1992, c. 1, s. 189; 1997, c. 85, s. 281; 2003, c. 9, s. 380; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.3. *(Repealed).*

History: 1987, c. 21, s. 76; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.4. *(Repealed).*

History: 1987, c. 21, s. 76; 1988, c. 4, s. 133; 1990, c. 7, s. 185; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.4.1. *(Repealed).*

History: 1990, c. 7, s. 186; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.4.2. *(Repealed).*

History: 1992, c. 1, s. 190; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.5. *(Repealed).*

History: 1988, c. 4, s. 133; 1989, c. 5, s. 226; 1990, c. 59, s. 349; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.6. *(Repealed).*

History: 1988, c. 4, s. 133; 1991, c. 8, s. 84; 1992, c. 1, s. 191; 1993, c. 19, s. 135; 1997, c. 85, s. 282; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2005, c. 23, s. 231; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7. *(Repealed).*

History: 1988, c. 4, s. 133; 1989, c. 5, s. 227; 1992, c. 1, s. 192; 1993, c. 19, s. 136; 2005, c. 23, s. 232; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.1. *(Repealed).*

History: 1991, c. 8, s. 85; 1992, c. 1, s. 193; 1993, c. 19, s. 137; 1997, c. 85, s. 283; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.1.1. *(Repealed).*

History: 1993, c. 19, s. 138; 1997, c. 85, s. 284; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.2. *(Repealed).*

History: 1991, c. 8, s. 85; 1992, c. 1, s. 194; 1993, c. 19, s. 139; 1997, c. 85, s. 285; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.3. *(Repealed).*

History: 1991, c. 8, s. 85; 1992, c. 1, s. 195; 1993, c. 19, s. 140; 1997, c. 85, s. 286; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.4. *(Repealed).*

History: 1991, c. 8, s. 85; 1992, c. 1, s. 195; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.5. *(Repealed).*

History: 1991, c. 8, s. 85; 1992, c. 1, s. 195; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.7.6. *(Repealed).*

History: 1992, c. 1, s. 196; 1997, c. 3, s. 71; 1997, c. 85, s. 287; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.8. *(Repealed).*

History: 1990, c. 7, s. 187; 1997, c. 3, s. 71; 2002, c. 45, s. 521; O.C. 45-2004; 2004, c. 37, s. 90; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.9. *(Repealed).*

History: 1990, c. 7, s. 187; 1992, c. 1, s. 197; 1997, c. 3, s. 71; 2002, c. 45, s. 521; 2003, c. 9, s. 381; 2004, c. 37, s. 90; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.10. *(Repealed).*

History: 1990, c. 7, s. 187; 1992, c. 1, s. 197; 1997, c. 3, s. 71; 2003, c. 9, s. 382; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

1049.2.11. *(Repealed).*

History: 1990, c. 7, s. 187; 1997, c. 3, s. 71; 2017, c. 29, s. 201.

Interpretation Bulletins: LAF. 95-1/R2.

Revoked registration.

1049.3. Every corporation that was a Québec business investment company, at any time after 7 September 1985, duly registered within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), whose registration is revoked under the said Act incurs a penalty equal to 40% of the amount of an investment that is or would be a qualified investment within the meaning of the said Act if the registration were valid, made after the seven hundred and thirtieth day preceding the date of revocation.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 76; 1997, c. 3, s. 71; 2000, c. 39, s. 203.

Interpretation Bulletins: LAF. 95-1/R2.

Investment held for less than 24 months.

1049.4. Every corporation that was at any time after 7 September 1985 a Québec business investment company duly registered within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), and

that makes a qualified investment in a year and does not hold the entire investment for at least 24 months after the acquisition of the investment incurs a penalty equal to 40% of the total amount of the investment.

Exception.

The first paragraph does not apply, however, to a replacement, for which the only consideration was a share, as a result of a transaction referred to in section 544, of a share that forms part of a qualified investment, where the replacement occurs

(a) in the 24 months following the acquisition of the investment, if the share issued in replacement is a qualified investment; or

(b) after the expiry of 12 months following the day on which the investment was acquired, where the transaction involves the corporation and the qualified legal person, within the meaning of the Act respecting Québec business investment companies, which benefited from the investment and the body designated under section 1 of that Act authorizes the transaction for the purposes of this section.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 76; 1990, c. 7, s. 188; 1997, c. 3, s. 71; 2000, c. 39, s. 204; 2002, c. 40, s. 226; 2010, c. 37, s. 109.

Interpretation Bulletins: LAF. 95-1/R2.

Purchase or redemption of shares forming part of a qualified investment.

1049.4.1. Where a particular share of the capital stock of a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), that forms part of a qualified investment, or a share substituted therefor, may be purchased or redeemed by the qualified legal person as a result of a transaction occurring, after 26 April 1990, during the 60 months following the acquisition of the particular share that forms part of a qualified investment, the qualified legal person incurs a penalty, in respect of the particular share or the share substituted therefor, equal to 40% of the lesser of

(a) the amount obtained by applying the percentage determined in section 965.31.1 in respect of the qualified investment to the amount that would be the amount of purchase or redemption of the particular share or the share substituted therefor, as the case may be, if the purchase or redemption were made immediately after the transaction, and

(b) the quotient obtained by dividing, by the number of shares that form part of the qualified investment, the amount obtained by applying the percentage referred to in paragraph *a* to the total amount of the qualified investment.

Exception.

The first paragraph does not apply where a particular share, or a share substituted therefor, that may be purchased or

redeemed as a result of a transaction occurring, after 9 March 1999, during the 60 months following the acquisition of the particular share that forms part of a qualified investment, satisfies the conditions set out in subparagraphs 1 to 3 of the first paragraph of section 21 of the Québec Business Investment Companies Regulation (chapter S-29.1, r. 1).

History: 1991, c. 8, s. 86; 2000, c. 39, s. 205; 2006, c. 13, s. 199.

Interpretation Bulletins: LAF. 95-1/R2.

Purchase or redemption of shares forming part of a qualified investment.

1049.5. Every qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), that purchases or redeems a particular share of its capital stock that forms part of a qualified investment or a share substituted therefor, after 26 April 1990, during the 60 months following the acquisition of the particular share that forms part of the qualified investment, incurs a penalty, in respect of the particular share or the share substituted therefor, equal to 40% of the lesser of

(a) the amount obtained by applying the percentage determined in section 965.31.1 in respect of the qualified investment to the amount of purchase or redemption of the particular share or the share substituted therefor, as the case may be, and

(b) the quotient obtained by dividing by the number of shares that form part of the qualified investment the amount obtained by applying the percentage referred to in paragraph *a* to the total amount of the qualified investment.

History: 1986, c. 15, s. 185; 1991, c. 8, s. 87; 2000, c. 39, s. 206.

Interpretation Bulletins: LAF. 95-1/R2.

Cancellation or reduction by the Minister.

1049.5.1. The Minister may cancel or reduce the amount of a penalty that, but for this section, would be determined under any of sections 1049.4 to 1049.5 in respect of a transaction, if he considers that, having regard to the circumstances, the amount would be otherwise excessive.

History: 1991, c. 8, s. 88; 1992, c. 1, s. 198.

Interpretation Bulletins: LAF. 95-1/R2.

Amount of penalty.

1049.5.2. For the purposes of this Part, except section 1049.5.1 and this section, where the Minister reduces to a particular amount the amount of the penalty determined under any of sections 1049.4 to 1049.5 in respect of a transaction, the particular amount is deemed to be the amount determined under that section in respect of the transaction.

History: 1992, c. 1, s. 199.

Interpretation Bulletins: LAF. 95-1/R2.

Unlawful use of funds from qualified investment.

1049.6. Every qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), incurs a penalty equal to 40% of the amount of a qualified investment made by a Québec business investment company in the qualified legal person, where the qualified legal person uses funds, during the 24 months following the date of that qualified investment and without the approval of the body designated under section 1 of that Act, to

(a) repay a creditor who is a shareholder of the Québec business investment company or of the qualified legal person or a person with whom the creditor does not deal at arm's length or a corporation that is associated with the qualified legal person;

(b) make a loan;

(c) purchase parcels of land with the intention of selling them;

(d) make investments outside Québec not directly related to the operations of the corporation;

(e) purchase or acquire shares of other corporations or all or substantially all of the assets of a business;

(f) purchase or redeem shares of its capital stock except a purchase or redemption referred to in section 1049.5.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 77; 1988, c. 4, s. 134; 1989, c. 5, s. 228; 1990, c. 7, s. 189; 1997, c. 3, s. 63; 1997, c. 14, s. 249; 1998, c. 17, s. 64; 2000, c. 39, s. 207; 2001, c. 69, s. 12; 2010, c. 37, s. 110.

Interpretation Bulletins: LAF. 95-1/R2.

Payment of dividends within 24 months.

1049.7. Every qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), that declares or pays a dividend in respect of shares of its capital stock that form part of a qualified investment during the 24 months following the acquisition of the shares as such incurs a penalty equal to 40% of the total amount of the investment.

History: 1986, c. 15, s. 185; 2000, c. 39, s. 208.

Interpretation Bulletins: LAF. 95-1/R2.

Payment of certain amounts by a legal person.

1049.8. Every qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), that pays an amount referred to in section 23 of the Québec Business Investment Companies Regulation (chapter S-29.1, r. 1) to a Québec business investment company during the 60 months following the acquisition of a share that forms part of a qualified investment by that Québec business investment company

incurs a penalty equal to 40% of the amount so paid but not in excess of 40% of the total amount of the investment.

History: 1986, c. 15, s. 185; 1997, c. 85, s. 288; 2000, c. 39, s. 209; 2006, c. 13, s. 200.

Interpretation Bulletins: LAF. 95-1/R2.

Changes in the activities of a legal person.

1049.9. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), other than a corporation referred to in section 1049.9.1, no longer operates primarily in one of the sectors of activity prescribed in the regulations made under paragraph 4 of section 16 of that Act during the 24 months following the date of a qualified investment, without the approval of the body designated under section 1 of that Act, the qualified legal person incurs a penalty equal to 40% of the total amount of the investment.

History: 1986, c. 15, s. 185; 1990, c. 7, s. 190; 1997, c. 3, s. 64; 1997, c. 14, s. 250; 1998, c. 17, s. 64; 2000, c. 39, s. 210; 2001, c. 69, s. 12; 2010, c. 37, s. 111.

Interpretation Bulletins: LAF. 95-1/R2.

Cessation of activities.

1049.9.1. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), ceases, as a consequence of financial problems, to carry on its business during the 24 months following the date of a qualified investment without the approval of the body designated under section 1 of that Act, the qualified legal person incurs a penalty of 40% of the total amount of the investment.

History: 1990, c. 7, s. 191; 1998, c. 17, s. 64; 2000, c. 39, s. 211; 2001, c. 69, s. 12; 2010, c. 37, s. 112.

Interpretation Bulletins: LAF. 95-1/R2.

Cash outflow.

1049.10. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1) makes a considerable cash outflow in favour of one of its shareholders, a shareholder of a Québec business investment company which is not a Québec business investment company referred to in section 4.1 of that Act, or a person related to any such shareholder during the 24 months preceding the date of a qualified investment in the qualified legal person made by the Québec business investment company or during the 60 months following the date of such an investment, without the approval of the body designated under section 1 of that Act, the qualified legal person incurs a penalty equal to 40% of the amount of the cash outflow, but not in excess of 40% of the total amount of the investment.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 78; 1990, c. 7, s. 192; 1997, c. 14, s. 251; 1998, c. 17, s. 64; 2000, c. 39, s. 212; 2001, c. 69, s. 12; 2010, c. 37, s. 113.

Interpretation Bulletins: LAF. 95-1/R2.

Cash outflow.

1049.10.1. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), makes a considerable cash outflow to acquire all or substantially all of the assets of a corporation a shareholder of which is also a shareholder of a Québec business investment company or a person related to any such shareholder during the 24 months preceding the date of a qualified investment in the qualified legal person made by the Québec business investment company or during the 60 months following the date of such an investment, without the approval of the body designated under section 1 of that Act, the qualified legal person incurs a penalty equal to 40% of the amount of the cash outflow, but not in excess of 40% of the amount of the investment.

History: 1990, c. 7, s. 193; 1997, c. 3, s. 64; 1997, c. 14, s. 252; 1998, c. 17, s. 64; 2000, c. 39, s. 213; 2001, c. 69, s. 12; 2010, c. 37, s. 114.

Interpretation Bulletins: LAF. 95-1/R2.

Annuitant deemed to be shareholder.

1049.10.2. For the purposes of sections 1049.6, 1049.10 and 1049.10.1, where a shareholder of a Québec business investment company, within the meaning of paragraph *f* of section 965.29, is a trust governed by a registered retirement savings plan or a registered retirement income fund, the annuitant, within the meaning of paragraph *b* of section 905.1 or paragraph *d* of section 961.1.5, as the case may be, under the plan or fund is deemed to be also a shareholder of the company.

History: 1991, c. 8, s. 89.

Interpretation Bulletins: LAF. 95-1/R2.

Arm's length dealings.

1049.11. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1) does not deal at arm's length, within the meaning assigned to that expression for the purposes of section 12 of that Act, with a Québec business investment company during the 24 months following the date of a qualified investment made by the company in the qualified legal person, without the approval of the body designated under section 1 of that Act, the qualified legal person incurs a penalty equal to 40% of the total amount of the investment.

History: 1986, c. 15, s. 185; 1988, c. 4, s. 135; 1990, c. 7, s. 194; 1998, c. 17, s. 64; 2000, c. 39, s. 214; 2001, c. 69, s. 12; 2010, c. 37, s. 115.

Interpretation Bulletins: LAF. 95-1/R2.

Insufficient proportion of wages paid to employees.

1049.11.1. Every qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), is liable to a penalty equal to 40% of the total amount of a qualified investment where

(a) in the 12 months preceding the date of the qualified investment or in the months preceding that date in the case of a corporation that has been in operation for less than 12 months, not more than 50%, or a lower percentage determined under paragraph 3 of section 13.2 of the Act respecting Québec business investment companies by the body designated under section 1 of that Act, of the wages paid to its employees and of the wages paid to the employees of corporations with which it is associated, were paid to employees of an establishment situated in Québec; or

(b) in the 12 months following the date of such an investment, not more than 50% of the wages paid to its employees and of the wages paid to the employees of corporations with which it is associated, were paid to employees of an establishment situated in Québec.

History: 1987, c. 21, s. 79; 2000, c. 39, s. 215; 2002, c. 40, s. 227; 2006, c. 13, s. 201; 2010, c. 37, s. 116.

Interpretation Bulletins: LAF. 95-1/R2.

1049.11.1.1. *(Repealed).*

History: 1990, c. 7, s. 195; 1997, c. 14, s. 253; 1999, c. 83, s. 229.

Interpretation Bulletins: LAF. 95-1/R2.

Failure to operate in a prescribed sector of activity.

1049.11.1.2. Where a qualified legal person, within the meaning of the Act respecting Québec business investment companies (chapter S-29.1), benefits from a qualified investment referred to in section 12.1 of that Act and, at the expiry of the time limit fixed in paragraph 2 of that section 12.1 or, as the case may be, extended by the body designated under section 1 of that Act under paragraph 2 of section 13.2 of that Act, it does not operate in a sector of activity prescribed in the regulations made under paragraph 4 of section 16 of that Act, the qualified legal person incurs a penalty equal to 40% of the total amount of the investment.

History: 1990, c. 7, s. 195; 1997, c. 14, s. 253; 1998, c. 17, s. 64; 2000, c. 39, s. 216; 2001, c. 69, s. 12; 2010, c. 37, s. 117.

Interpretation Bulletins: LAF. 95-1/R2.

Inclusion in the total amount of a qualified investment.

1049.11.1.3. For the purpose of determining the amount of a penalty provided for in sections 1049.3 to 1049.11.1.2, the total amount of a qualified investment is deemed to include the portion, attributable under section 965.31.5 to the qualified investment, of the amount the Québec business investment company having made the qualified investment has renounced under the said section 965.31.5 in respect of a share issue the proceeds of which have been used to make the qualified investment.

History: 1992, c. 1, s. 200.

Interpretation Bulletins: LAF. 95-1/R2.

1049.11.2. *(Repealed).*

History: 1987, c. 21, s. 79; 1990, c. 7, s. 196; 1999, c. 83, s. 230.

Interpretation Bulletins: LAF. 95-1/R2.

1049.11.3. *(Repealed).*

History: 1988, c. 4, s. 136; 2002, c. 40, s. 228.

Interpretation Bulletins: LAF. 95-1/R2.

1049.11.4. *(Repealed).*

History: 1990, c. 7, s. 197; 1993, c. 64, s. 177.

Interpretation Bulletins: LAF. 95-1/R2.

Reduction of equity of cooperative.

1049.12. Every qualified cooperative, within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère de l'Économie et de l'Innovation (chapter M-14.1), whose equity, within the meaning of the plan, before redemption of the issued shares, is reduced to less than 80% of its equity on 23 April 1985 by a reduction of its capital stock other than a redemption of common shares belonging to a member who is deceased, disabled or under tutorship or curatorship, incurs a penalty equal to 50% of the part of the reduction that reduces the equity to less than 80% of the equity on 23 April 1985.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 80; 1988, c. 41, s. 89; 1989, c. 54, s. 176; 1994, c. 16, s. 51; 1999, c. 8, s. 20; 2003, c. 29, s. 139; O.C. 222-2004; 2006, c. 8, s. 31; [2020, c. 11, s. 193 — the amendment provided by this section, which comes into force on the date or dates to be set by the Government, will be incorporated into the Act on that date: 2020, c. 11, s. 257].

Interpretation Bulletins: LAF. 95-1/R2.

Reduction of the capital stock of a qualified cooperative or a qualified federation of cooperatives.

1049.12.1. Every qualified cooperative or qualified federation of cooperatives, within the meaning of section 965.39.1, whose equity, within the meaning of section 2 of the Cooperative Investment Plan Act (chapter R-8.1.1), before the redemption or repayment of the issued shares, is reduced to less than 80% of its equity on 23 April 1985 by reason of a reduction of its capital stock otherwise than by reason of a repayment of common shares belonging to a member who is deceased, disabled or under tutorship or curatorship, incurs a penalty equal to 30% of the part of the reduction that reduces the equity to less than 80% of the equity on 23 April 1985.

History: 2006, c. 37, s. 49; [2020, c. 11, s. 193 — the amendment provided by this section, which comes into force on the date or dates to be set by the Government, will be incorporated into the Act on that date: 2020, c. 11, s. 257].

Interpretation Bulletins: LAF. 95-1/R2.

Issue of qualifying securities without qualification certificate.

1049.13. Every qualified cooperative, within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère de l'Économie et de l'Innovation (chapter M-14.1), that issues qualifying securities without holding a valid qualification certificate as prescribed in the plan or whose certificate is revoked and that asserts that such

securities are qualifying securities under the cooperative investment plan incurs a penalty equal to 50% of the amount of the securities sold while it did not hold a valid qualification certificate or after the date of revocation of the certificate.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 80; 1988, c. 41, s. 89; 1994, c. 16, s. 51; 1999, c. 8, s. 20; 2003, c. 29, s. 139; O.C. 222-2004; 2006, c. 8, s. 31.

Interpretation Bulletins: LAF. 95-1/R2.

Issue of non-qualifying securities by a qualified cooperative or a qualified federation of cooperatives.

1049.13.1. Every qualified cooperative or qualified federation of cooperatives, within the meaning of section 965.39.1, that issues shares without holding a valid qualification certificate as prescribed in section 6 of the Cooperative Investment Plan Act (chapter R-8.1.1) or while its certificate is revoked and that asserts that such shares are qualifying securities under that Act incurs a penalty equal to 50% of the amount of the shares issued while it did not hold a valid qualification certificate or after the date of revocation of the certificate.

History: 2006, c. 37, s. 50; 2012, c. 1, s. 66.

Interpretation Bulletins: LAF. 95-1/R2.

Redemption of qualifying security without compliance with requirements.

1049.14. Every qualified cooperative, within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère de l'Économie et de l'Innovation (chapter M-14.1), that redeems a qualifying security before 24 June 2009 without complying with the requirements of the plan incurs a penalty equal to 50% of the amount of the qualifying securities so redeemed, unless the redemption is an exchange operation described in the second paragraph.

Exchange operation.

The exchange operation to which the first paragraph refers is a conversion of securities, an amalgamation or a reorganization of the capital stock, at the end of which a qualifying security is exchanged for consideration consisting only of preferred shares or fractions of such shares that meet the requirements set out in paragraphs 3 and 5 of section 6 of the plan.

History: 1986, c. 15, s. 185; 1987, c. 21, s. 80; 1988, c. 41, s. 89; 1994, c. 16, s. 51; 1999, c. 8, s. 20; 2003, c. 29, s. 139; O.C. 222-2004; 2006, c. 8, s. 31; 2009, c. 15, s. 358; 2010, c. 25, s. 186.

Interpretation Bulletins: LAF. 95-1/R2.

Redemption of a qualifying security by a qualified cooperative or qualified federation of cooperatives.

1049.14.0.1. Every qualified cooperative or qualified federation of cooperatives, within the meaning of section 965.39.1, that redeems or repays a qualifying

security, within the meaning of that section, before 24 June 2009 without complying with the period specified in paragraph 4 of section 6 of the Cooperative Investment Plan Act (chapter R-8.1.1) incurs a penalty equal to 30% of the amount of the qualifying securities so redeemed or repaid, unless the redemption or repayment is an allowable redemption or repayment that complies with the rules set out in sections 2 and 7 of that Act or an exchange operation described in the third paragraph.

Winding-up or dissolution.

If the redemption or repayment referred to in the first paragraph occurs as part of the winding-up or dissolution of a cooperative or federation of cooperatives, the penalty specified in the first paragraph is replaced by a penalty equal to 30% of the amount obtained by applying, to the amount of the qualifying securities so redeemed or repaid, the percentage obtained by dividing by 1,826 the amount by which 1,826 exceeds the number of days included in the period that begins on the day of issue of the qualifying securities and ends on the day on which they are redeemed or repaid.

Exchange operation.

The exchange operation to which the first paragraph refers is a conversion of securities, an amalgamation or a reorganization of the capital stock, at the end of which a qualifying security is exchanged for consideration consisting only of preferred shares or fractions of such shares that meet the requirements set out in paragraphs 3 and 4 of section 6 of that Act.

History: 2006, c. 37, s. 51; 2009, c. 15, s. 359; 2010, c. 25, s. 187.

Interpretation Bulletins: LAF. 95-1/R2.

Payment of a patronage in cash.

1049.14.0.2. Every qualified cooperative or qualified federation of cooperatives, within the meaning of section 965.39.1, that, in respect of a fiscal period ended in a particular calendar year in which it issued qualifying securities, within the meaning of that section, or in the 12-month period that precedes the particular year, pays, otherwise than in the form of shares, a patronage dividend greater than 33 ⅓% of its operating surplus or surplus earnings, incurs a penalty equal to the lesser of

(a) 30% of the proceeds of the issue of qualifying securities for the particular year; and

(b) the aggregate of

i. 30% of the portion of the patronage dividend, otherwise than in the form of shares, that exceeds 33 ⅓% of the operating surplus or surplus earnings, such portion being in this subparagraph *b* referred to as the “excess patronage dividend”, paid in respect of a fiscal period that ended in the particular year,

ii. in the case where no qualifying securities were issued in the 12-month period that precedes the particular year, 30% of the excess patronage dividend paid in respect of a fiscal period that ended in the 12-month period that precedes the particular year, and

iii. in any other case, the amount by which 30% of the excess patronage dividend paid in respect of a fiscal period that ended in the 24-month period that precedes the particular year exceeds the aggregate of the penalties relating to the payment of a patronage dividend incurred under this section in respect of the issue of qualifying securities in the 24-month period that precedes the particular year, up to 30% of the excess patronage dividend paid in respect of a fiscal period that ended in the 12-month period that precedes the particular year.

History: 2006, c. 37, s. 51; 2007, c. 12, s. 219.

Interpretation Bulletins: LAF. 95-1/R2.

1049.14.1. (*Repealed*).

History: 1990, c. 7, s. 198; 2005, c. 23, s. 233.

Interpretation Bulletins: LAF. 95-1/R2.

False statement in prospectus.

1049.14.2. If a corporation stipulates falsely, in its final prospectus relating to a share issue, that the issued shares may be included in a stock savings plan II described in section 965.56, it incurs a penalty equal to 25% of the adjusted cost that would be determined under section 965.123 if the stipulation of the corporation were true, of each share of the issue distributed in Québec to an individual or to a qualified mutual fund.

False statement in prospectus.

If a corporation stipulates, in a final prospectus relating to a share issue, in respect of shares that may be included in a stock savings plan II described in section 965.56, an adjusted cost other than that determined under section 965.123, it incurs a penalty equal to 25% of the amount by which the adjusted cost so stipulated in respect of each share of the public issue distributed in Québec to an individual or to a qualified mutual fund exceeds the adjusted cost determined under section 965.123 in respect of each such share.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 170.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.3. If a corporation makes a public issue of shares with the stipulation that they can be included in a stock savings plan II and if the shares are not listed on a designated stock exchange located in Canada within 60 days of the date of the receipt for the final prospectus or of the exemption from filing a prospectus in respect of their issue, the corporation incurs a penalty equal to 25% of the adjusted cost, determined under section 965.123, of each share of the

issue distributed in Québec to an individual or to a qualified mutual fund.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 171.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.4. If a corporation issues, at a particular time, a share of its capital stock with the stipulation that it can be included in a stock savings plan II or issues a share in replacement of a share issued at a particular time with such a stipulation or issued in replacement of a share issued in substitution for such a share and purchases or redeems in any manner whatever, directly or indirectly, in the year including the particular time but after that time or in the two years following that year, a share of a class of its capital stock other than a share described in section 965.106 or other than a share that has been the subject of a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.105, it incurs a penalty equal to the amount determined under the second paragraph.

Computation of penalty.

The amount of the penalty prescribed in the first paragraph in respect of a purchase or redemption is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount of the purchase or redemption by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the purchase or redemption but before the time of the purchase or redemption or in the two years preceding that year and distributed in Québec or in replacement of shares issued in substitution for such shares, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the two years preceding that year, with the

stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the year of the purchase or redemption or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 172.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.5. If shares of the capital stock of a corporation, other than shares that have been the subject of a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.107, were, at a particular time, the subject of a transaction or operation or of a series of transactions or operations and if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the redemption of a share of its capital stock other than a share described in section 965.108, the corporation incurs a penalty equal to the amount determined under the second paragraph if it issued, in the year including the particular time but before that time or in the two years preceding that year, a share of its capital stock with the stipulation that it could be included in a stock savings plan II or issued a share of its capital stock in replacement of a share issued with such a stipulation in the year including the particular time but before that time or in the two years preceding that year or in replacement of a share issued in substitution for such a share.

Computation of penalty.

The amount of the penalty prescribed in the first paragraph in respect of a transaction or operation or of a series of transactions or operations is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount determined under section 965.109 in respect of the transaction or operation or of the series of transactions or operations by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the transaction or operation or of the series of

transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year and distributed in Québec, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 173.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.6. If a corporation issues a share of its capital stock with the stipulation that it can be included in a stock savings plan II, or issues a share of its capital stock in replacement of a share issued with such a stipulation or in replacement of a share issued in substitution for such a share, and the corporation's net shareholders' equity is affected in any manner whatever, directly or indirectly, in the year the share issued with such a stipulation was issued but after the time of the issue or in the two years following that year, following a transaction or operation or a series of transactions or operations other than that referred to in section 965.112 or a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.110, it incurs a penalty equal to the

amount determined under the second paragraph if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the redemption of a share of a class of its capital stock other than a share described in section 965.111.

Computation of penalty.

The amount of the penalty prescribed in the first paragraph in respect of a transaction or operation or of a series of transactions or operations is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount determined under the second paragraph of section 965.110 in respect of the transaction or operation or of the series of transactions or operations by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year and distributed in Québec, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the

year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 174.

Interpretation Bulletins: LAF. 95-1/R2.

Stay of imposition of penalty.

1049.14.7. The Minister may stay the imposition of a penalty under any of sections 1049.14.4 to 1049.14.6 in respect of a corporation that plans to carry out or has already carried out a transaction referred to in any of those sections, if the corporation has applied to the Minister to that effect and undertakes to comply with any of the conditions set out in section 1049.14.8.

Revocation of stay.

The Minister may at any time revoke the stay provided for in the first paragraph if the Minister is of the opinion that the undertaking of the corporation is compromised.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Conditions.

1049.14.8. The conditions to be complied with by a corporation referred to in section 1049.14.7 are that the corporation must issue shares of its capital stock that meet the requirement set out in paragraph *b* of section 965.74 and are not qualifying shares, or that shares of its capital stock must be the subject of a transaction or operation or of a series of transactions or operations that, in the opinion of the Minister, can reasonably be believed to be equivalent to the issue of shares of the capital stock of the corporation that meet the requirement set out in that paragraph *b*, for an amount equal to or greater than the amount of the purchase or redemption referred to in the first paragraph of section 1049.14.4 or an amount determined under section 965.109 or the second paragraph of section 965.110 in respect of a transaction referred to in section 1049.14.5 or 1049.14.6, on or before the expiry of a period of two years that begins on the day after the day of the beginning of the transaction to which section 1049.14.7 refers.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Stay of imposition of penalty.

1049.14.9. Despite sections 1049.14.4 to 1049.14.6, if the Minister, under section 1049.14.7, stays the imposition of a penalty in respect of a corporation for a particular transaction and the corporation fulfills, to the satisfaction of

the Minister, its undertaking under section 1049.14.7, the corporation incurs no penalty for the transaction.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Amount of penalty.

1049.14.10. Despite sections 1049.14.4 to 1049.14.6, if the amount of a particular penalty under any of those sections is greater than the excess amount determined under the second paragraph, the amount of the particular penalty is to be reduced to that excess amount.

Excess amount.

The excess amount to which the first paragraph refers in respect of a particular penalty relating to a transaction referred to in any of the sections referred to in that paragraph is the amount by which the amount determined under the third paragraph exceeds the amount determined under the fourth paragraph.

Computation of amount.

The amount determined under this paragraph is equal to 25% of the aggregate of the adjusted cost of

(a) the shares of the capital stock of the corporation that were issued, in the year of the transaction but before the time of the transaction or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund;

(b) the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph *a*, that were issued, in the year of the transaction but before the time of the transaction or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund; and

(c) the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph *b*, issued in substitution for shares, other than shares described in subparagraph *a*, that were issued, in the year of the transaction but before the time of the transaction or in the two years preceding that year, with the stipulation that they could be included in a stock savings plan II, and distributed in Québec to an individual or to a qualified mutual fund.

Computation of amount.

The amount determined under this paragraph is equal to the aggregate of the penalties incurred by the corporation under sections 1049.14.4 to 1049.14.6 before the imposition of the particular penalty in respect of the shares of its capital stock that are described in the third paragraph.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 175.

Interpretation Bulletins: LAF. 95-1/R2.

Cancellation or reduction by the Minister.

1049.14.11. The Minister may cancel or reduce the amount of a penalty that would, but for this section, be determined under any of sections 1049.14.4 to 1049.14.6 in respect of a corporation, if the Minister considers that, under the circumstances, the amount would otherwise be excessive.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.12. For the purposes of this Part, except section 1049.14.11 and this section, if the Minister reduces to a particular amount the amount of a penalty determined under any of sections 1049.14.4 to 1049.14.6 in respect of a transaction, the particular amount is deemed to be the amount determined under that section in respect of the transaction.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

False statement in prospectus.

1049.14.13. If a mutual fund states falsely in its final prospectus that the issued securities can be included in a stock savings plan II described in paragraph *b* of section 965.56, the mutual fund manager or trustee incurs a penalty equal to 25% of the adjusted cost that would be determined under section 965.124 if the statement of the mutual fund were true, of each security of the issue distributed in Québec to an individual.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 176.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.14. If, in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *a* of the first paragraph of section 965.119 in respect of a public security issue made by the qualified mutual fund in the year and if, in the final prospectus relating to the issue, a percentage is stipulated to determine the adjusted cost of securities that are qualifying securities, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the aggregate of the qualifying securities issued by the manager or trustee in the year as part of the public security issue that are valid qualifying securities exceeds the adjusted cost of the qualifying shares acquired by the qualified mutual fund during the year with the proceeds of the issue of such qualifying securities.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.15. If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *b* of the first paragraph of section 965.119 in respect of a public security issue made by the qualified mutual fund in the year, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the aggregate of the qualifying securities issued by the manager or trustee in the year and in the preceding two years as part of the public security issue that have not been redeemed by the qualified mutual fund on or before 31 December in the year exceeds the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 177.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.16. If, on 31 December in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *a* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the proportion of the amount by which the portion, which is the subject of the undertaking under that paragraph *a*, of the proceeds for the year preceding the particular year, of the public security issue exceeds the greater of the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year and the cost, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs, to the qualified mutual fund, of the aggregate of the qualifying shares described in that paragraph *a* acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121, as is represented by the ratio that the portion of the proceeds, for the year preceding the particular year, of the public security issue derived from the issue of qualifying securities is of the proceeds of the issue.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.17. If, on 31 December in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *b* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the

proportion of the amount by which the adjusted cost of the aggregate of the qualifying shares described in paragraph *a* of that section that should have been acquired by the qualified mutual fund in the particular year and in the year preceding that year with the proceeds, for the year preceding the particular year, of the public security issue for the undertaking to be fulfilled, exceeds the greater of the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year and the adjusted cost of the aggregate of the qualifying shares described in that paragraph *a* acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121, as is represented by the ratio that the portion of the proceeds, for the year preceding the particular year, of the public security issue derived from the issue of qualifying securities is of the proceeds of the issue.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.18. If, in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *c* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year and, in the final prospectus relating to the issue, a percentage has been stipulated to determine the adjusted cost of securities that are qualifying securities, the manager or trustee incurs a penalty equal to 25% of the amount by which the amount determined under the second paragraph exceeds the amount determined under the third paragraph.

Computation of amount.

The amount determined under this paragraph is equal to the amount by which the adjusted cost of the aggregate of the qualifying securities issued in the year that are valid qualifying securities exceeds the particular amount referred to in paragraph *c* of section 965.121 in respect of the year.

Computation of amount.

The amount determined under this paragraph is equal to the adjusted cost of the qualifying shares acquired by the qualified mutual fund during the year with the portion of the proceeds of the issue of valid qualifying securities issued in the year that exceeds the particular amount referred to in paragraph *c* of section 965.121 in respect of the year, other than qualifying shares having already been used, in respect of the year, for the purposes of paragraph *d* of section 965.121.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.19. If, in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *d* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the amount by which the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year, exceeds the adjusted cost of the qualifying shares described in paragraph *a* of that section, acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.20. If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *e* of section 965.121, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year, other than qualifying shares or valid shares having already been used, in respect of the year, for the purposes of paragraph *f* of that section, is exceeded by the amount by which the adjusted cost of the aggregate of the qualifying securities issued in the year and the preceding two years that have not been redeemed by the qualified mutual fund on or before 31 December in the year exceeds the aggregate of all amounts each of which is a particular amount referred to in paragraph *c* of section 965.121 in respect of the year or any of the preceding two years.

History: 2006, c. 13, s. 202; 2010, c. 5, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.21. If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *f* of section 965.121, the manager or trustee incurs a penalty equal to 25% of the amount by which the aggregate of the amounts each of which is a particular amount referred to in paragraph *c* of that section in respect of any of the preceding three years, exceeds the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year, other than qualifying shares or valid shares having already been used, in respect of the year, for the purposes of paragraph *e* of section 965.121.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty for failure to fulfill an undertaking.

1049.14.22. If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *c* of the first paragraph of section 965.119 or paragraph *g* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year, the manager or trustee incurs a penalty equal to 25% of the amount that would be computed under section 965.129 if that section were applicable to the qualified mutual fund.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty for failure to send a report.

1049.14.23. If a corporation fails to send a copy of the report referred to in paragraph *d* of section 965.76 to the Minister within the prescribed time, in accordance with that paragraph, the corporation incurs a penalty of \$25 a day for every day the omission continues, up to \$10,000.

History: 2006, c. 13, s. 202; 2010, c. 25, s. 188.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty.

1049.14.24. If a corporation obtains a designation of eligibility under section 965.88 on false representations, the corporation incurs a penalty of \$100,000.

History: 2006, c. 13, s. 202.

Interpretation Bulletins: LAF. 95-1/R2.

Purchase of class “A” share.

1049.15. Where the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1) purchases a class “A” share by agreement under section 8 of that Act, it incurs a penalty equal to 15% of the amount paid for the share by the first purchaser or, where the amount paid by the first purchaser relates to such a share purchased by him before 10 May 1996, to 20% of that amount.

Purchase of class “A” share.

Similarly, where the corporation governed by the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi (chapter F-3.1.2) purchases a class “A” share by agreement under section 9 of that Act, it incurs a penalty equal to the following percentage of the amount paid by the first purchaser for the share or for the class “B” share that was exchanged for the class “A” share under section 8 of that Act:

(a) 20%, where the amount paid by the first purchaser relates to such a share purchased by the first purchaser before 10 May 1996;

(b) 25%, where the amount paid by the first purchaser relates to such a share purchased by the first purchaser in the period that begins on 1 June 2009 and ends on 31 May 2015;

(b.1) 20%, where the amount paid by the first purchaser relates to such a share purchased by the first purchaser in the period that begins on 1 June 2015 and ends on 31 May 2021; and

(c) 15%, in any other case.

Exception.

The first and second paragraphs do not apply, however, to any purchase made by a corporation in a fiscal period, in circumstances other than those described in the second paragraph of section 776.1.5.0.1 or 776.1.5.0.6, as the case may be, to the extent that the aggregate of the amount of the purchase and of all previous purchases made by the corporation in the fiscal period is, in such circumstances, less than 2% of the amount of paid-up capital in respect of shares of its capital stock which, under the conditions for their issue, cannot be, either partially or totally, purchased or redeemed by the corporation or purchased by any person, in any manner whatever, directly or indirectly.

Exception.

Similarly, the first and second paragraphs do not apply to any purchase made by a corporation in a fiscal period, in the circumstances described in the second paragraph of section 776.1.5.0.1 or 776.1.5.0.6, as the case may be.

History: 1988, c. 4, s. 137; 1989, c. 5, s. 229; 1995, c. 63, s. 217; 1997, c. 3, s. 71; 1997, c. 14, s. 254; 2001, c. 53, s. 236; 2010, c. 5, s. 179; 2013, c. 10, s. 144; 2017, c. 1, s. 346; 2019, c. 14, s. 428.

Interpretation Bulletins: LAF. 95-1/R2.

1049.16. *(Repealed).*

History: 1988, c. 4, s. 137; 1989, c. 5, s. 230.

Interpretation Bulletins: LAF. 95-1/R2.

1049.17. *(Repealed).*

History: 1988, c. 4, s. 137; 1989, c. 5, s. 231; 1995, c. 1, s. 172; 1995, c. 63, s. 218.

Interpretation Bulletins: LAF. 95-1/R2.

1049.18. *(Repealed).*

History: 1988, c. 4, s. 137; 1989, c. 5, s. 231; 1995, c. 1, s. 173; 1995, c. 63, s. 218.

Interpretation Bulletins: LAF. 95-1/R2.

1049.19. *(Repealed).*

History: 1988, c. 4, s. 137; 1989, c. 5, s. 231; 1995, c. 63, s. 218.

Interpretation Bulletins: LAF. 95-1/R2.

1049.20. *(Repealed).*

History: 1989, c. 5, s. 232; 1990, c. 7, s. 199; 1991, c. 8, s. 90; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.21. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.22. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.23. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.24. *(Repealed).*

History: 1990, c. 7, s. 200; 1991, c. 25, s. 170; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.25. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

1049.26. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.27. *(Repealed).*

History: 1990, c. 7, s. 200; 1993, c. 64, s. 178.

Interpretation Bulletins: LAF. 95-1/R2.

1049.28. *(Repealed).*

History: 1991, c. 8, s. 91; 1995, c. 1, s. 174.

Interpretation Bulletins: LAF. 95-1/R2.

1049.29. *(Repealed).*

History: 1992, c. 1, s. 201; 1993, c. 64, s. 179; 1994, c. 21, s. 50; 1994, c. 21, s. 66; O.C. 216-95; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1997, c. 14, s. 255.

Interpretation Bulletins: LAF. 95-1/R2.

1049.30. *(Repealed).*

History: 1992, c. 1, s. 201; 1993, c. 64, s. 180; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1997, c. 14, s. 255.

Interpretation Bulletins: LAF. 95-1/R2.

1049.31. *(Repealed).*

History: 1992, c. 1, s. 201; 1993, c. 64, s. 181; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1997, c. 14, s. 255.

Interpretation Bulletins: LAF. 95-1/R2.

1049.32. *(Repealed).*

History: 1992, c. 1, s. 201; 1995, c. 1, s. 175; 1995, c. 63, s. 219 [amended by 1996, c. 39, s. 287]; 1997, c. 3, s. 71; 1998, c. 17, s. 64; 2001, c. 69, s. 12; 2011, c. 6, s. 209.

Interpretation Bulletins: LAF. 95-1/R2.

Penalty concerning a tip remittance agreement.

1049.33. Every employer who refuses to receive a written report made by an individual pursuant to section 1019.4 incurs, in respect of each such report, a penalty of \$100 for each pay period in respect of which the employer so refuses to receive such a report.

History: 1997, c. 85, s. 289.

Interpretation Bulletins: LAF. 95-1/R2.

Offence and penalty.

1049.34. Every employee who fails to provide the employer with a copy of the logbook referred to in section 41.1.4 within the time specified in that section incurs a penalty of \$200.

History: 2005, c. 23, s. 234.

Interpretation Bulletins: LAF. 95-1/R2.

Burden of proof in respect of penalties.

1050. Where, in any contestation or appeal under the Tax Administration Act (chapter A-6.002), a penalty is in issue, the burden of establishing the facts referred to in sections 1049 to 1049.34 is on the Minister.

History: 1972, c. 23, s. 774; 1979, c. 14, s. 6; 1982, c. 5, s. 188; 1983, c. 49, s. 19; 1986, c. 15, s. 186; 1988, c. 4, s. 138; 1989, c. 5, s. 233; 1990, c. 7, s. 201; 1991, c. 8, s. 92; 1992, c. 1, s. 202; 1997, c. 85, s. 290; 2005, c. 23, s. 235; 2010, c. 31, s. 175; 2020, c. 12, s. 127.

Interpretation Bulletins: LAF. 95-1/R2.

Corresponding Federal Provision: 163(3).

**TITLE VI
REFUNDS****Refund of excess tax paid.**

1051. Where a taxpayer has filed a fiscal return for a taxation year and has paid as tax, interest or a penalty for that year an amount greater than the amount that was exigible, the Minister may refund the overpayment to the taxpayer on mailing the notice of assessment for that year.

Time for filing.

However, the Minister shall make the refund referred to in the first paragraph, if application is made for it by the taxpayer

(a) within three years following the end of the taxation year concerned;

(b) within the four years following the end of the taxation year concerned where the taxpayer is, at the end of that year, a mutual fund trust or a corporation other than a Canadian-controlled private corporation;

(c) within the six years or seven years, as the case may be, following the taxation year concerned where paragraph *a.1* of subsection 2 of section 1010 applies;

(d) within the three years following the day on which the information return described in section 1079.7 is filed, in relation to a claim or deduction made by the taxpayer in respect of a tax shelter, where paragraph *a.2* of subsection 2 of section 1010 applies.

History: 1972, c. 23, s. 775; 1982, c. 5, s. 189; 1983, c. 49, s. 20; 1985, c. 25, s. 154; 1986, c. 15, s. 187; 1990, c. 7, s. 202; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 231; 2015, c. 24, s. 150.

Interpretation Bulletins: IMP. 1051-1/R3; IMP. 1051-2/R1.

Corresponding Federal Provision: 164(1).

Conditions for refund of provisional accounts.

1051.1. Section 1051.2 applies to a taxpayer for a taxation year if, at any time after the beginning of the year,

(a) the taxpayer has paid, in respect of the taxpayer's tax payable for the year under this Part and of the taxpayer's tax payable for the year under Parts IV, IV.1, VI and VI.1, one or more provisional accounts under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027 or any of sections 1145, 1159.7, 1175 and 1175.19, if they refer to that subparagraph *a*;

(b) it is reasonable to conclude that the total amount of those provisional accounts exceeds the total amount of the tax that will be payable by the taxpayer for the year under those Parts; and

(c) the Minister is of the opinion that the payment of those provisional accounts has caused or will cause undue hardship to the taxpayer.

History: 2010, c. 5, s. 180.

Corresponding Federal Provision: 164(1.51).

Refund.

1051.2. The Minister may refund to a taxpayer to whom this section applies for a taxation year all or part of the excess referred to in paragraph *b* of section 1051.1.

History: 2010, c. 5, s. 180.

Corresponding Federal Provision: 164(1.52).

Refund.

1051.3. For the purposes of the interest and penalties computed under this Part, a provisional account is deemed not to have been paid to the extent that all or part of the

provisional account can reasonably be considered to have been refunded under section 1051.2.

History: 2010, c. 5, s. 180.

Corresponding Federal Provision: 164(1.53).

Interest on overpayment.

1052. Where the amount of an overpayment by a taxpayer, otherwise than as a consequence of the application of any of Divisions II.16, II.17, II.17.2 and II.21 of Chapter III.1 of Title III or of section 1029.8.36.166.47, is refunded to, or applied to another liability of, the taxpayer, interest thereon shall be paid to the taxpayer for the period ending on the day the overpayment is refunded or applied, and beginning on the day that is the latest of

(a) the day on which the overpayment was made following a notice of assessment;

(b) the forty-sixth day following the day on which the overpayment was made otherwise than following a notice of assessment;

(c) the forty-sixth day following the balance-due day in the case of an individual, or following the filing-due date in the case of a corporation;

(d) the forty-sixth day following the day on which the fiscal return giving rise to the overpayment was filed under sections 1000 to 1003;

(e) where an overpayment is determined for a taxation year pursuant to an application to amend the fiscal return filed under sections 1000 to 1003 for that year, the forty-sixth day following the day on which the Minister receives the application in writing; and

(f) if an overpayment is determined for a taxation year as a result of information sent by the Government of Canada or of a province, other than Québec, the forty-sixth day following

i. the day on which the Minister receives the information from that government, or

ii. if it precedes the day mentioned in subparagraph i, the day on which the Minister receives the information from the taxpayer.

History: 1972, c. 23, s. 776; 1981, c. 12, s. 13; 1982, c. 38, s. 14; 1983, c. 49, s. 21; 1985, c. 25, s. 155; 1986, c. 19, s. 193; 1989, c. 5, s. 234; 1991, c. 8, s. 93; 1992, c. 31, s. 4; 1997, c. 31, s. 127; 1997, c. 85, s. 291; 1999, c. 83, s. 232; 2007, c. 12, s. 220; 2009, c. 5, s. 491; 2009, c. 15, s. 360; 2011, c. 1, s. 100.

Interpretation Bulletins: IMP. 1052-2; IMP. 1053-1/R2; LAF 28-3/R1.

Corresponding Federal Provision: 164(3).

Overpayment.

1053. For the purposes of section 1052, the portion of any overpayment of the tax payable by a taxpayer for a taxation year that arose as a consequence of the exclusion of an amount from the taxpayer's income under sections 294 to 298 in respect of the exercise of an option in a subsequent taxation year, as a consequence of the exclusion of an amount from the taxpayer's income, or of the deduction of an amount, by reason of the disposition, in a subsequent taxation year, of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in that section, as a consequence of the deduction of an amount relating to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b* to *b.1.0.1*, *c* to *d.1.0.0.3*, *d.1.1* and *f* to *h* of section 1012.1, as a consequence of the deduction of an amount under any of sections 785.2.2 to 785.2.4 from the proceeds of disposition of a property because of an election made in a fiscal return for a subsequent taxation year, as a consequence of the reduction of an amount included in computing the taxpayer's income under section 580 for the taxation year because of a reduction referred to in section 1012.2 in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year of the foreign affiliate that ends in the taxation year, or as a consequence of the deduction of an amount relating to a preceding taxation year and referred to in any of sections 727 to 737 where that deduction is claimed after the expiry of the time limit provided for in section 1000 applicable to the taxation year, is deemed to have been paid to the Minister on the latest of

(a) the 46th day following the day on which an amended fiscal return of the taxpayer or a prescribed form was filed in accordance with any of sections 297, 716.0.1, 752.0.10.15, 1012, 1012.2, 1054, 1055.1.2 and 1055.1.3 so as to exclude from the taxpayer's income, to deduct or to reduce the amount for the taxation year;

(b) where, as a consequence of a request in writing, the Minister assessed the taxpayer's tax for the year so as to exclude from his income or deduct the amount for the taxation year, the forty-sixth day following the day on which the request was made;

(c) the forty-sixth day following the day immediately following the end of the subsequent taxation year relating to the amount excluded from the taxpayer's income or deducted for the taxation year;

(d) the forty-sixth day following the day on which the taxpayer or his legal representative files his fiscal return

under this Part for the subsequent taxation year referred to in paragraph *c*.

History: 1972, c. 23, s. 777; 1983, c. 49, s. 22; 1985, c. 25, s. 156; 1986, c. 19, s. 194; 1987, c. 67, s. 188; 1988, c. 4, s. 139; 1989, c. 5, s. 235; 1990, c. 7, s. 203; 1991, c. 25, s. 171; 1992, c. 31, s. 5; 1993, c. 64, s. 182; 1995, c. 63, s. 220; 1997, c. 31, s. 128; 1999, c. 83, s. 233; 2000, c. 5, s. 278; 2004, c. 8, s. 182; 2005, c. 23, s. 236; 2005, c. 38, s. 293; 2007, c. 12, s. 221; 2011, c. 34, s. 110; 2015, c. 36, s. 154; 2017, c. 1, s. 347.

Interpretation Bulletins: IMP. 1053-1/R2.

Corresponding Federal Provision: 164(5).

Inclusion of an amount.

1053.0.1. Where, for a particular taxation year, a taxpayer has included an amount in computing his income by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in either of those sections, and an overpayment of tax was refunded to him or was applied to another liability, his tax payable under this Part for the particular taxation year is deemed, for the purpose of computing interest payable under section 1052, to be equal to the tax that the taxpayer would have been required to pay had he not been entitled to so include that amount.

Tax increase.

However, the amount by which the taxpayer's tax payable under this Part for the particular taxation year is increased by reason of the inclusion of an amount described in the first paragraph is deemed, for the purpose of computing interest payable under section 1052, to have so increased the taxpayer's tax payable under this Part for the particular taxation year, from the taxpayer's filing-due date for the subsequent taxation year.

History: 1995, c. 63, s. 221; 1997, c. 3, s. 71; 1997, c. 31, s. 143.

Interest on overpayment.

1053.0.1.1. If the amount of an overpayment by a corporation for a taxation year, as a consequence of the application for the year of section 1029.8.36.166.47 in relation to the unused portion of the tax credit of the corporation for a subsequent year, is refunded to, or applied to another liability of, the corporation, interest on the overpayment is to be paid to the corporation for the period ending on the day the overpayment is refunded or applied and beginning on the forty-sixth day following the day the prescribed form referred to in that section is filed with the Minister.

History: 2009, c. 15, s. 361.

Interest.

1053.0.2. If the amount of an overpayment by an individual for a taxation year as a consequence of the application, for the year, of Division II.16 or II.17 of

Chapter III.1 of Title III, otherwise than as a consequence of the application of the second paragraph of any of sections 1029.8.109, 1029.8.116 and 1029.8.116.0.1, is refunded to, or applied to another liability of, the individual, interest on the overpayment is to be paid to the individual for the period ending on the day the overpayment is refunded or applied, and beginning on the day that is the latest of

(a) the last day of the month specified for the year, within the meaning of section 1029.8.101 or 1029.8.110, as the case may be, to which the overpayment relates;

(a.1) 30 September 2007 if the overpayment relates to that month because of the application of section 1029.8.114.1;

(b) the forty-sixth day following the day on which the individual's fiscal return, referred to in section 1029.8.105 or 1029.8.114, as the case may be, was filed for the year; and

(c) where an overpayment is determined for the year pursuant to an application to amend the fiscal return referred to in section 1029.8.105 or 1029.8.114, as the case may be, for that year, the forty-sixth day following the day on which the Minister receives the application in writing.

History: 1997, c. 85, s. 292; 1999, c. 83, s. 234; 2009, c. 5, s. 492.

Interest.

1053.0.3. If the amount of an overpayment by an individual for a taxation year as a consequence of the application, for the year, of the second paragraph of any of sections 1029.8.109, 1029.8.116 and 1029.8.116.0.1, is refunded to, or applied to another liability of, the individual, interest on the overpayment is to be paid to the individual for the period ending on the day the overpayment is refunded or applied, and beginning on the day that is the latest of

(a) the last day of the month specified for the year, within the meaning of section 1029.8.101 or 1029.8.110, as the case may be, to which the overpayment relates;

(a.1) 30 September 2007 if the overpayment relates to that month; and

(b) the forty-sixth day following the day on which the Minister receives the application in writing referred to in that paragraph for the year.

History: 1997, c. 85, s. 292; 1999, c. 83, s. 235; 2009, c. 5, s. 493.

Interest.

1053.0.4. If the amount of an overpayment by a trust for a particular taxation year as a consequence of the application, for the particular year, of Division II.21 of Chapter III.1 of Title III, is refunded to, or applied to another liability of, the trust, interest on the overpayment is to be paid to the trust for the period ending on the day the overpayment is refunded or applied, and beginning

(a) if the particular taxation year is the year 2007,

i. on 15 May 2008 if the application referred to in subparagraph *a* of the second paragraph of section 1029.8.128 was filed with the Minister on or before 30 June 2008, and

ii. in any other case, on the forty-sixth day following the date on which the Minister received the application referred to in subparagraph *a* of the second paragraph of section 1029.8.128; and

(b) if the particular taxation year is subsequent to the year 2007, on the forty-sixth day following the later of

i. the ninetieth day following the end of the particular year, and

ii. the date on which the Minister received the application referred to in subparagraph *a* of the second paragraph of section 1029.8.128 for the particular year.

History: 2009, c. 5, s. 494.

1053.1. (*Repealed*).

History: 1989, c. 5, s. 236; 1994, c. 22, s. 329.

Tax payable by a qualified corporation.

1053.2. Where, as a consequence of the application of section 771.5.1, the amount of an overpayment for a taxation year by a qualified corporation within the meaning of sections 771.5 to 771.7 is refunded to, or applied to another liability of, the qualified corporation, the qualified corporation's tax payable under this Part for the taxation year is, for the purpose of computing interest to be paid pursuant to section 1052 in respect of that part of the period referred to therein preceding the time the corporation filed the return referred to therein in accordance with section 771.5.1, deemed to be equal to the tax that the corporation would have been required to pay had it not been a qualified corporation within the meaning of sections 771.5 to 771.7.

History: 1990, c. 7, s. 204; 1995, c. 63, s. 261; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 236.

Disposition of capital property by legal representative.

1054. If the legal representative referred to in section 1055 disposes, in the circumstances described in that section, of one or more properties of the succession of the deceased taxpayer, the following rules apply despite any other provision of this Part:

(a) except for the purposes of section 741 and this subparagraph, the portion, corresponding, subject to the second paragraph, to the lesser of the following amounts, of a capital loss from the disposition of a particular capital property referred to in paragraph *a* of section 1055 is deemed to be a capital loss of the deceased taxpayer from the

disposition of the particular capital property by the taxpayer in the taxpayer's last taxation year and not to be a capital loss of the succession from the disposition of that capital property:

i. the total of

(1) the amount of the valid election made after 19 December 2006 by the legal representative under paragraph *c* of subsection 6 of section 164 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in relation to the disposition of the particular capital property, and

(2) if the total of the amounts of the valid elections made by the legal representative under paragraph *c* of subsection 6 of section 164 of the Income Tax Act in relation to the aggregate of the dispositions of properties of the succession corresponds to the maximum total of the amounts that the legal representative may then elect in accordance with that paragraph *c* in relation to the aggregate of those dispositions, the portion—that is specified by the legal representative, in the prescribed documents required under subparagraph *d*, in relation to the capital loss from the disposition of the particular capital property and that is not so specified in relation to another capital loss—of the portion of the excess amount referred to in paragraph *a* of section 1055 that is greater than the amount by which the maximum total of the amounts that the legal representative may then elect in accordance with that paragraph *c* in relation to the aggregate of the dispositions of properties of the succession exceeds the aggregate of all amounts each of which is the amount by which the amount referred to in subparagraph *i* in relation to a disposition of a capital property referred to in paragraph *a* of section 1055 exceeds the amount referred to in subparagraph *ii* in relation to that disposition, and

ii. the amount of the capital loss otherwise determined from the disposition of the particular capital property;

(b) the portion, corresponding, subject to the third paragraph, to the lesser of the following amounts, of a deductible amount described in paragraph *b* of section 1055 from the disposition of all the depreciable properties of a particular prescribed class of the succession is deductible in computing the income of the deceased taxpayer for the year in which the taxpayer died and is not deductible in computing a loss of the succession for its first taxation year:

i. the total of

(1) the amount of the valid election made after 19 December 2006 by the legal representative under paragraph *d* of subsection 6 of section 164 of the Income Tax Act in relation to the disposition of depreciable properties of the particular prescribed class, and

(2) if the total of the amounts of the valid elections made by the legal representative under paragraph *d* of subsection 6 of

section 164 of the Income Tax Act in relation to the aggregate of the dispositions of properties of the succession corresponds to the maximum total of the amounts that the legal representative may then elect in accordance with that paragraph *d* in relation to the aggregate of those dispositions, the portion—that is specified by the legal representative, in the prescribed documents required under subparagraph *d*, in relation to the deductible amount described in paragraph *b* of section 1055 from the disposition of all the depreciable properties of the particular prescribed class and that is not so specified in relation to another deductible amount described in that paragraph *b*—of the amount by which the amount described in the fourth paragraph exceeds the portion of the maximum total of the amounts that the legal representative may then elect in accordance with that paragraph *d* in relation to the aggregate of the dispositions of properties of the succession that is greater than the aggregate of all amounts each of which is the amount by which the amount referred to in subparagraph 1 in relation to the deductible amount described in paragraph *b* of section 1055 from the disposition of all the depreciable properties of a prescribed class of the succession exceeds the amount referred to in subparagraph ii in relation to that deductible amount, and

ii. the deductible amount described in paragraph *b* of section 1055, otherwise determined, from the disposition of all the depreciable properties of the particular prescribed class;

(c) in computing the taxable income of the deceased taxpayer for a taxation year preceding the year in which he died, no amount may be deducted in respect of an amount referred to in subparagraph *a* or *b*;

(d) the legal representative shall, within the prescribed time, file with the Minister an amended fiscal return in the name of the deceased taxpayer for the taxation year in which the taxpayer died and the prescribed documents.

Global limit with regard to disposition of capital property.

However, if the aggregate of the amounts determined under subparagraph *a* of the first paragraph in relation to the disposition of the capital properties referred to in paragraph *a* of section 1055 would, but for this paragraph, be greater than the excess amount referred to in paragraph *a* of that section, the amount otherwise determined under subparagraph *a* of the first paragraph in respect of such a capital property must, if applicable, be reduced to the amount specified in relation to that capital property by the legal representative of the deceased taxpayer in the prescribed documents required under subparagraph *d* of the first paragraph or, if no amount is so specified, by the Minister, so that the aggregate is equal to the excess amount referred to in paragraph *a* of section 1055.

Global limit with regard to disposition of depreciable property.

In addition, if the aggregate of the amounts determined under subparagraph *b* of the first paragraph in relation to the

deductible amounts described in paragraph *b* of section 1055 would, but for this paragraph, be greater than the amount described in the fourth paragraph, the amount otherwise determined under subparagraph *b* of the first paragraph in respect of such a deductible amount must, if applicable, be reduced to the amount specified in relation to that deductible amount by the legal representative of the deceased taxpayer in the prescribed documents required under subparagraph *d* of the first paragraph or, if no amount is so specified, by the Minister, so that the aggregate is equal to the amount described in the fourth paragraph.

Amount referred to.

The amount referred to in subparagraph 2 of subparagraph *i* of subparagraph *b* of the first paragraph and the third paragraph is equal to the amount that would, but for this section, represent the total of the non-capital loss and the farm loss of the succession for its first taxation year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 6 of section 164 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 778; 1974, c. 18, s. 34; 1985, c. 25, s. 157; 1987, c. 67, s. 189; 1988, c. 18, s. 125; 1998, c. 16, s. 251; 2001, c. 7, s. 152; 2009, c. 5, s. 495.

Corresponding Federal Provision: 164(6)(c), (d) and (f).

Application of section 1054.

1055. Section 1054 applies if, in the course of the administration of the succession of a deceased taxpayer that is a graduated rate estate, the legal representative of the deceased taxpayer disposes, within the first taxation year of the succession,

(a) of the capital properties of the succession with the result that capital losses exceed capital gains; or

(b) of all the depreciable properties of a prescribed class of the succession the undepreciated capital cost of which, at the end of the first taxation year of the succession, is deductible under section 130.1 or the regulations made under paragraph *a* of section 130 in computing the income of the succession for that year.

History: 1972, c. 23, s. 779; 1972, c. 26, s. 75; 1974, c. 18, s. 35; 1975, c. 22, s. 239; 1978, c. 26, s. 207; 1987, c. 67, s. 190; 1988, c. 18, s. 126; 1998, c. 16, s. 251; 2009, c. 5, s. 496; 2017, c. 1, s. 348.

Corresponding Federal Provision: 146(6)(a) and (b).

Realization of deceased employees' options.

1055.1. Despite any other provision of this Act, if, within the first taxation year of the succession of a deceased taxpayer that is a graduated rate estate, a right to acquire a security, as defined in section 47.18, under an agreement in

respect of which a benefit was deemed by section 52.1 to have been received by the taxpayer is exercised or disposed of by the taxpayer's legal representative and the taxpayer's legal representative makes an election in prescribed manner and within the prescribed time, the following rules apply:

(a) the taxpayer is deemed to have incurred a loss from an office or employment for the year in which he died equal to the amount by which the amount of the benefit deemed under section 52.1 to have been received by him in respect of the right exceeds the aggregate of

i. the amount by which the value of the right immediately before the time it was exercised or disposed of exceeds the amount paid by the taxpayer to acquire the right, and

ii. where an amount has been deducted under section 725.2 in computing the taxpayer's taxable income for the year in which the taxpayer died in respect of the benefit deemed under section 52.1 to have been received by the taxpayer in that year in respect of that right, 1/4 of the amount by which the amount of the benefit deemed under section 52.1 to have been received by the taxpayer in respect of that right exceeds the amount determined under subparagraph i;

(b) the amount of the loss that would be determined under paragraph a if that paragraph were read without reference to subparagraph ii thereof, shall be deducted in computing the adjusted cost base to the succession of the right at any time; and

(c) the legal representative shall, on or before the date prescribed for making the election under this section, file an amended fiscal return for the taxpayer for the year in which the taxpayer died to give effect to paragraph a.

History: 1994, c. 22, s. 330; 1998, c. 16, s. 251; 2001, c. 53, s. 237; 2003, c. 2, s. 282; 2006, c. 36, s. 211; 2017, c. 1, s. 349.

Corresponding Federal Provision: 164(6.1).

Operation of section 1055.1.

1055.1.1. For the purposes of subparagraph ii of paragraph a of section 1055.1, if an amount was deducted under section 725.2, as a consequence of the application of section 725.2.0.1 or 725.2.0.1.1, in computing a taxpayer's taxable income for the year in which the taxpayer died, that subparagraph ii is to be read as if "1/4" were replaced by "50%".

History: 2009, c. 15, s. 362; 2019, c. 14, s. 429.

Repayment of salary.

1055.1.2. Despite any other provision of this Act, if the legal representative of a deceased taxpayer pays, in any taxation year (in this section referred to as the "repayment year"), an amount that would be deductible under section 78.1, but for this section, in computing, for the repayment year, the income of the succession that is a graduated rate estate, the amount is deemed to have been

paid by the taxpayer in the taxpayer's last taxation year and not to have been so paid by the legal representative.

Conditions.

The first paragraph applies only if the following conditions are met on or before the succession's filing-due date for the repayment year:

(a) the legal representative elects to have the first paragraph apply in respect of the amount paid; and

(b) the legal representative files with the Minister an amended fiscal return in the name of the taxpayer for the taxation year in which the taxpayer died.

History: 2011, c. 34, s. 111; 2017, c. 1, s. 350.

Repayment of benefits.

1055.1.3. Despite any other provision of this Act, if the legal representative of a deceased taxpayer repays, in a particular taxation year of the succession of the taxpayer that is a graduated rate estate, an amount that is a benefit received by the taxpayer under the Act respecting parental insurance (chapter A-29.011), the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), and included by the taxpayer in computing the taxpayer's income for one or more taxation years, the amount is deemed to have been repaid by the taxpayer in the taxpayer's last taxation year and not to have been repaid by the legal representative.

Conditions.

The first paragraph applies only if the following conditions are met on or before the succession's filing-due date for the particular taxation year:

(a) the legal representative elects to have the first paragraph apply in respect of the repaid amount; and

(b) the legal representative files with the Minister an amended fiscal return in the name of the taxpayer for the taxation year in which the taxpayer died.

History: 2011, c. 34, s. 111; 2017, c. 1, s. 351.

Assignment of the right to claim a refund of tax.

1055.2. Despite any inconsistent provision of any law, a corporation may assign or hypothecate the right to claim an amount payable to it under this Act.

Limited effect of the assignment or hypothec.

The assignment or hypothec is not binding on the State and, as a result, the following rules apply:

(a) the Minister retains discretion to pay or not to pay the amount to the assignee or creditor;

(b) the assignment or hypothec does not create any liability of the State to the assignee or creditor; and

(c) the rights of the assignee or creditor are subject to the rights conferred on the State by section 31 of the Tax Administration Act (chapter A-6.002) and any right to compensation of which the State may avail itself.

History: 2000, c. 39, s. 217; 2006, c. 36, s. 212; 2010, c. 31, s. 175.

1056. *(Repealed).*

History: 1972, c. 23, s. 780; 1972, c. 26, s. 76; 1974, c. 18, s. 36; 1975, c. 22, s. 240; 1985, c. 25, s. 158; 1987, c. 67, s. 191; 1988, c. 18, s. 127.

TITLE VI.1
(Repealed).

1056.1. *(Repealed).*

History: 1986, c. 103, s. 12; 1989, c. 4, s. 11; 1997, c. 85, s. 293.

1056.2. *(Repealed).*

History: 1986, c. 103, s. 12; 1989, c. 4, s. 11; 1997, c. 85, s. 293.

1056.3. *(Repealed).*

History: 1986, c. 103, s. 12; 1989, c. 4, s. 11; 1997, c. 85, s. 293.

TITLE VI.2
ELECTION

Extension for election.

1056.4. The Minister may extend the time for making a prescribed election or grant permission to amend or revoke such an election if

(a) the election was required to be made by a taxpayer or by a partnership on or before a particular day in a taxation year of the taxpayer or a fiscal period of the partnership; and

(b) the taxpayer or the partnership applies, on or before the day that is ten calendar years after the end of the taxation year or the fiscal period, to the Minister for that extension or permission.

History: 1993, c. 16, s. 340; 1997, c. 3, s. 71; 2005, c. 38, s. 294.

Corresponding Federal Provision: 220(3.2).

Election in respect of split-retirement income.

1056.4.0.1. On a written application by a taxpayer, the Minister may extend the time for making an election under Chapter II.1 of Title VI of Book III or grant permission for such an election made previously to be amended or revoked if

(a) the application is made on or before the day that is three calendar years after the taxpayer's filing-due date for the taxation year for which the election applies; and

(b) the taxpayer is resident in Canada at the time of the application or, if the taxpayer is deceased at that time, at the time that is immediately before the taxpayer's death.

Federal election.

The first paragraph does not apply to an election described in the definition of "joint election" in the first paragraph of section 336.8, enacted by the first paragraph of section 336.9.

Extension or amendment of election.

However, if, in accordance with paragraph 3.201 of section 220 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the Minister of National Revenue extends the time for making an election referred to in the second paragraph or grants permission for such an election made previously to be amended or revoked, the Minister is deemed, for the purposes of this Title, to have so extended the time for making the election or so granted permission for such an election to be amended or revoked, under the first paragraph.

Exception.

The third paragraph does not apply if the taxpayer who applied for an extension of the time for making an election referred to in the second paragraph for a particular taxation year, or the other taxpayer with whom the election must be made, was a transferor who was resident in Québec at the end of that year or, if the transferor died in that year, at the time that is immediately before the transferor's death, and who made a joint election within the meaning of the first paragraph of section 336.8 with the transferor's eligible spouse for the particular year within the meaning of sections 776.41.1 to 776.41.4 that has not been revoked in accordance with a permission obtained under the first paragraph.

History: 2009, c. 5, s. 497.

Corresponding Federal Provision: 220(3.2.01).

Deemed prescribed election.

1056.4.1. For the purposes of section 1056.4, the following rules apply:

(a) a designation in the form prescribed for the purposes of subparagraph *j* of the first paragraph of section 485.3 or any of sections 485.6 to 485.11 and 485.40 is deemed to be a prescribed election;

(a.1) a specification made under any of sections 279, 280.3 and 1054 in a fiscal return or other document is deemed to be a prescribed election; and

(b) an allocation under section 1121.12 is deemed to be a prescribed election.

History: 1996, c. 39, s. 255; 2001, c. 53, s. 238; 2009, c. 5, s. 498; 2010, c. 5, s. 181.

Corresponding Federal Provision: 220(3.21).

Examination and assessment by the Minister.

1056.5. The Minister shall, with dispatch, examine each application filed with him under section 1056.4 and, where the application is granted by the Minister, determine the penalty payable and send a notice of assessment in that respect to the taxpayer or the partnership.

History: 1993, c. 16, s. 340; 1997, c. 3, s. 71.

Corresponding Federal Provision: 220(3.6)(part).

Penalty.

1056.6. Where an application made under section 1056.4 is granted by the Minister, the taxpayer or the partnership incurs, in respect of the election or of the amended or revoked election, a penalty equal to \$100 for each complete month from the day on or before which the election was required to be made to the day on which the application is made, up to \$5,000.

History: 1993, c. 16, s. 340; 1997, c. 3, s. 71.

Corresponding Federal Provision: 220(3.5).

Amended election.

1056.7. Where the Minister has extended the time for making an election or granted permission to amend an election, the election or amended election is deemed to have been made in the form in which and on or before the day on or before which the election was required to be made.

Amended or revoked election.

In addition, where the Minister has granted permission to amend or revoke an election, the election is deemed never to have been made.

History: 1993, c. 16, s. 340.

Corresponding Federal Provision: 220(3.3).

Reassessment and redetermination by the Minister.

1056.8. Despite section 1010, where the Minister extends the time for making an election or grants permission to amend or revoke an election, the Minister shall make a reassessment and redetermine the tax, interest and penalties for any taxation year to take into account the election or the amended or revoked election.

Assessment by the Minister.

The same rule applies where a provision of an Act or regulation allows the making of an election in respect of a

taxation year prior to the date of coming into force of that provision.

History: 1993, c. 16, s. 340; 1995, c. 1, s. 176; 2011, c. 34, s. 112.

Corresponding Federal Provision: 220(3.4).

TITLE VII

(Repealed).

1057. *(Repealed).*

History: 1972, c. 23, s. 781; 1982, c. 5, s. 190; 1988, c. 21, s. 66; 1992, c. 31, s. 6; 1995, c. 1, s. 177; 1995, c. 36, s. 3; 1997, c. 31, s. 129; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1057.0.1. *(Repealed).*

History: 1995, c. 63, s. 222; 1997, c. 3, s. 71; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1057.1. *(Repealed).*

History: 1992, c. 31, s. 7; 1995, c. 36, s. 4; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1057.2. *(Repealed).*

History: 1995, c. 36, s. 4; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1057.3. *(Repealed).*

History: 1996, c. 31, s. 4; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1058. *(Repealed).*

History: 1972, c. 23, s. 782; 1975, c. 83, s. 84; 1995, c. 36, s. 5.

Interpretation Bulletins: LMR. 21-2.

1059. *(Repealed).*

History: 1972, c. 23, s. 783; 1974, c. 18, s. 37; 1975, c. 83, s. 84; 1995, c. 36, s. 6; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1060. *(Repealed).*

History: 1972, c. 23, s. 784; 1982, c. 5, s. 191; 1982, c. 38, s. 15; 1985, c. 25, s. 159; 1986, c. 15, s. 188; 1990, c. 7, s. 205; 1996, c. 31, s. 5; 1997, c. 85, s. 294.

Interpretation Bulletins: IMP. 1010-1/R2; LMR. 21-2.

1060.1. *(Repealed).*

History: 1986, c. 103, s. 13; 1993, c. 16, s. 341; 1994, c. 22, s. 331; 1995, c. 63, s. 223; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1061. *(Repealed).*

History: 1972, c. 23, s. 785; 1985, c. 25, s. 159; 1986, c. 15, s. 188; 1990, c. 7, s. 206; 1997, c. 85, s. 294.

Interpretation Bulletins: LMR. 21-2.

1062. *(Repealed).*

History: 1972, c. 23, s. 786; 1974, c. 18, s. 38; 1995, c. 36, s. 7.

Interpretation Bulletins: LMR. 21-2.

TITLE VIII**REVOCATION OF REGISTRATION OF CERTAIN ORGANIZATIONS AND ASSOCIATIONS****Revocation of registration of charities or associations.**

1063. The Minister may revoke the registration of a charity, of a Canadian amateur athletic association or of a Québec amateur athletic association the registration of which has been recognized or authorized by this Part or by regulation, if such organization or association

(a) applies therefor;

(b) fails to comply with the conditions imposed by this Part or the regulations for the maintenance of its registration;

(c) fails to file an information return as and when required under this Part or a regulation;

(d) issues a receipt for a gift otherwise than in accordance with this Part and the regulations or that contains false information;

(e) fails to comply with or contravenes section 34 of the Tax Administration Act (chapter A-6.002); or

(f) in the case of a registered Canadian amateur athletic association or of a registered Québec amateur athletic association, accepts a gift the granting of which was expressly or impliedly conditional upon the association making a gift to another person, club, society or association.

History: 1972, c. 23, s. 787; 1978, c. 26, s. 208; 1995, c. 49, s. 236; 1997, c. 14, s. 256; 2005, c. 23, s. 237; 2010, c. 31, s. 175; 2015, c. 21, s. 496.

Interpretation Bulletins: LMR. 21-2.

Corresponding Federal Provision: 168(1).

Notice of intention to revoke registration.

1064. The Minister shall, before revoking the registration of an organization or association contemplated in section 1063, give notice of his intention by registered mail except if the revocation is effected upon the application of the organization or association.

History: 1972, c. 23, s. 788; 1975, c. 83, s. 84; 1978, c. 26, s. 208; 1997, c. 14, s. 257; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181].

Interpretation Bulletins: LMR. 21-2.

Corresponding Federal Provision: 168(1).

Notice in the Gazette officielle du Québec.

1065. (1) The revocation shall be by means of the publication of a notice for that purpose given by the Minister in the *Gazette officielle du Québec*.

Publication.

(2) The Minister may publish such notice without delay in the case provided for in paragraph *a* of section 1063; in all other cases, the Minister may publish it upon the expiry of the time limit specified in section 93.1.10.1 or 93.1.15 of the Tax Administration Act (chapter A-6.002) for contesting if the decision has not been contested or after final judgment if it has.

History: 1972, c. 23, s. 789; 1978, c. 26, s. 208; 1995, c. 63, s. 224; 1997, c. 85, s. 295; 2005, c. 38, s. 295; 2010, c. 31, s. 175; 2020, c. 12, s. 128.

Interpretation Bulletins: LMR. 21-2.

Corresponding Federal Provision: 168(2)(a) and (b).

Revocation.

1065.1. Despite sections 1063 to 1065, if the registration of a charity is, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), revoked under paragraph *c* of subsection 4 of section 149.1 of that Act or under subsection 3 of section 168 of that Act, or annulled under subsection 23 of section 149.1 of that Act, the registration of that charity is deemed to be revoked or annulled for the purposes of this Act and the regulations.

History: 2003, c. 2, s. 283; 2005, c. 38, s. 296; 2009, c. 15, s. 363.

Interpretation Bulletins: LMR. 21-2.

Corresponding Federal Provision: 168(3).

BOOK X***(Repealed).*****1066.** *(Repealed).*

History: 1972, c. 23, s. 790; 1982, c. 38, s. 16; 1988, c. 21, s. 66; 1991, c. 12, s. 1; 1995, c. 63, s. 225; 1997, c. 3, s. 71; 1997, c. 14, s. 258; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1066.1. *(Repealed).*

History: 1982, c. 5, s. 192; 1982, c. 38, s. 17; 1985, c. 25, s. 160; 1986, c. 15, s. 189; 1990, c. 7, s. 207; 1997, c. 85, s. 296.

Corresponding Federal Provision: IMP. 1010-1/R2; LMR. 21-2.

1066.2. *(Repealed).*

History: 1993, c. 16, s. 342; 1994, c. 22, s. 332; 1995, c. 63, s. 226; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1067. *(Repealed).*

History: 1972, c. 23, s. 791; 1982, c. 5, s. 193; 1988, c. 21, s. 66; 1995, c. 36, s. 8; 1996, c. 31, s. 6; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1068. *(Repealed).*

History: 1972, c. 23, s. 792; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1069. *(Repealed).*

History: 1972, c. 23, s. 793; 1975, c. 21, s. 26; 1978, c. 26, s. 209; 1979, c. 18, s. 73; 1986, c. 15, s. 190; 1988, c. 21, s. 66; 1991, c. 25, s. 172; 1995, c. 36, s. 9; 1995, c. 49, s. 236; 1996, c. 31, s. 7; 1996, c. 39, s. 256; 1997, c. 14, s. 259; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1070. *(Repealed).*

History: 1972, c. 23, s. 794; 1986, c. 15, s. 191; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1071. *(Repealed).*

History: 1972, c. 23, s. 795; 1975, c. 83, s. 84; 1982, c. 5, s. 194; 1983, c. 47, s. 6; 1988, c. 21, s. 66; 1992, c. 31, s. 8; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1072. *(Repealed).*

History: 1972, c. 23, s. 796; 1982, c. 5, s. 195; 1983, c. 47, s. 7; 1992, c. 31, s. 9; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1073. *(Repealed).*

History: 1972, c. 23, s. 797; 1977, c. 26, s. 115; 1988, c. 21, s. 66; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1074. *(Repealed).*

History: 1972, c. 23, s. 798; 1986, c. 19, s. 195; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1075. *(Repealed).*

History: 1972, c. 23, s. 799; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1076. *(Repealed).*

History: 1972, c. 23, s. 800; 1975, c. 83, s. 84; 1988, c. 21, s. 66; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1077. *(Repealed).*

History: 1972, c. 23, s. 801; 1975, c. 22, s. 241; 1988, c. 21, s. 66; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1078. *(Repealed).*

History: 1972, c. 23, s. 802; 1983, c. 47, s. 8; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

1079. *(Repealed).*

History: 1972, c. 23, s. 803; 1984, c. 35, s. 30; 1992, c. 31, s. 10; 1997, c. 85, s. 296.

Corresponding Federal Provision: LMR. 21-2.

BOOK X.1**IDENTIFICATION NUMBER FOR A TAX SHELTER****TITLE I****DEFINITIONS AND INTERPRETATION****Definitions:**

1079.1. In this Book,

“gifting arrangement”;

“gifting arrangement” means any arrangement under which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the arrangement, that if a person were to enter into the arrangement, the person would

(a) make a gift to a qualified donee, or a contribution referred to in the first paragraph of section 776, of property acquired by the person under the arrangement; or

(b) incur a limited-recourse debt that may reasonably be considered to relate to a gift to a qualified donee or a contribution referred to in the first paragraph of section 776;

“limited-recourse debt”;

“limited-recourse debt” in respect of a gift or a contribution described in the first paragraph of section 776 of a taxpayer, at the time the gift or contribution is made, means an amount equal to the aggregate of

(a) each limited-recourse amount at that time, determined under Title VIII of Book VI, of the taxpayer and of any other taxpayer not dealing at arm’s length with the taxpayer, that can reasonably be considered to relate to the gift or contribution;

(b) each limited-recourse amount at that time, determined under Title VIII of Book VI when that Title VIII is applied to any other taxpayer dealing at arm’s length with and holds, directly or indirectly, an interest in the taxpayer, that can reasonably be considered to relate to the gift or contribution; and

(c) each amount that is the unpaid amount at that time of any other indebtedness, of any taxpayer referred to in paragraph *a* or *b*, that can reasonably be considered to relate to the gift or contribution if there is a guarantee, security or similar covenant in respect of that or any other indebtedness;

“person”;

“person” includes a partnership;

“promoter”;

“promoter” in respect of a tax shelter means a person who, in the course of a business,

(a) issues or sells, or promotes the issuance, sale or acquisition of, the tax shelter;

(b) acts as a mandatary or adviser in respect of the issuance or sale, or the promotion of the issuance, sale or acquisition, of the tax shelter; or

(c) accepts consideration in respect of the tax shelter;

“tax shelter”.

“tax shelter” means

(a) a gifting arrangement described in paragraph *b* of the definition of “gifting arrangement”; and

(b) a gifting arrangement described in paragraph *a* of the definition of “gifting arrangement”, or a property, including any right to income, other than a flow-through share or a prescribed property, in respect of which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the gifting arrangement or the property, that, if a person were to enter into the gifting arrangement or acquire an interest in the property, the amount referred to in the second paragraph would, at the end of a particular taxation year that ends within four years after the day on which the gifting arrangement is entered into or the interest is acquired, equal or exceed the amount by which the cost to the person of the property acquired under the gifting arrangement, or of the interest in the property at the end of the particular year, determined without reference to Title VIII of Book VI, would exceed the aggregate of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed, directly or indirectly, in respect of the property acquired under the gifting arrangement, or of the interest in the property, by the person or any person with whom the person does not deal at arm’s length.

Tax shelter.

The amount to which the definition of “tax shelter” in the first paragraph refers is, for the particular taxation year referred to in that definition, the aggregate of all amounts each of which is

(a) an amount, or a loss in the case of a partnership interest, represented to be deductible in computing the person’s income for the particular year or any preceding taxation year in respect of the gifting arrangement or the interest in the property, including, if the property is a right to income, an amount or loss in respect of that right that is stated or represented to be so deductible; or

(b) any other amount stated or represented to be deemed under this Part to be paid on account of the person’s tax payable, or to be deductible in computing the person’s income, taxable income or tax payable under this Part, for the particular year or any preceding taxation year in respect of

the gifting arrangement or the interest in the property, other than an amount so stated or represented that is included in computing a loss described in subparagraph *a*.

Tax shelter promoters.

In this Book, more than one person may act as a tax shelter promoter in respect of the same tax shelter.

History: 1990, c. 59, s. 350; 2000, c. 5, s. 280; 2001, c. 7, s. 153; 2005, c. 1, s. 275; 2009, c. 5, s. 499; 2012, c. 8, s. 241.

Corresponding Federal Provision: 237.1(1).

**TITLE II
GENERALITIES****Application for an identification number.**

1079.2. A promoter in respect of a tax shelter shall apply to the Minister in prescribed form for an identification number for the tax shelter, unless an application therefor has already been made in respect of the tax shelter.

History: 1990, c. 59, s. 350; 2000, c. 5, s. 293.

Corresponding Federal Provision: 237.1(2).

Issue of identification number.

1079.3. Upon receipt of an application under section 1079.2 for an identification number for a tax shelter, together with prescribed information, the amount of \$200 and an undertaking satisfactory to the Minister that records in respect of the tax shelter will be kept and retained at a place that is satisfactory to the Minister, the Minister shall issue an identification number for the tax shelter.

History: 1990, c. 59, s. 350; 1992, c. 31, s. 11; 1996, c. 39, s. 257; 2000, c. 5, s. 293; 2000, c. 25, s. 1.

Corresponding Federal Provision: 237.1(3).

Sales prohibited.

1079.4. A person may, at any time, sell or issue, or accept consideration in respect of, a tax shelter only if

(a) the Minister has issued before that time an identification number for the tax shelter; and

(b) that time is during the calendar year designated by the Minister as being applicable to the identification number.

History: 1990, c. 59, s. 350; 2000, c. 5, s. 281; 2013, c. 10, s. 145.

Corresponding Federal Provision: 237.1(4).

Disclosure of the identification number.

1079.5. Every promoter in respect of a tax shelter shall

(a) make reasonable efforts to ensure that all persons who acquire or otherwise invest in the tax shelter are provided with the identification number issued by the Minister for the tax shelter;

(b) prominently display on the upper right-hand corner of any statement of earnings prepared by or on behalf of the promoter in respect of the tax shelter the identification number issued for the tax shelter; and

(c) on every written statement that refers either directly or indirectly and either expressly or implicitly to the issuance by the Minister of an identification number for the tax shelter, as well as on the copy of the portion of the information return to be forwarded pursuant to section 1079.7.3, prominently display

i. the following French text:

"Le numéro d'identification attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal.", or

ii. the following French and English texts:

"Le numéro d'identification attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal.

The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter."

History: 1990, c. 59, s. 350; 2000, c. 5, s. 281; 2015, c. 21, s. 497.

Corresponding Federal Provision: 237.1(5).

TITLE III DEDUCTION

Deductions and claims disallowed.

1079.6. No amount may be deducted or claimed by a person in respect of a tax shelter unless the person files with the Minister the prescribed form containing prescribed information and, where the person was an individual resident in Québec at the time the person acquired or otherwise invested in the tax shelter, the identification number for the tax shelter, and, in other cases, either that identification number or the identification number issued under subsection 3 of section 237.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) by the Minister of Revenue of Canada for the tax shelter.

History: 1990, c. 59, s. 350; 1993, c. 16, s. 343; 1993, c. 19, s. 141; 2000, c. 5, s. 281.

Corresponding Federal Provision: 237.1(6).

Deductions and claims disallowed.

1079.6.1. No amount may be deducted, claimed or deemed to have been paid by any person for any taxation year in respect of a tax shelter of the person where any person incurs a penalty under section 1049.0.2, as it applied before its repeal, or 1079.7.4 in respect of the tax shelter or interest on the penalty and the penalty or interest has not been paid.

History: 2000, c. 5, s. 282.

Corresponding Federal Provision: 237.1(6.1).

TITLE IV ADMINISTRATION

Information return.

1079.7. Every promoter in respect of a tax shelter who accepts consideration in respect of the tax shelter from an individual resident in Québec at the time of the acceptance or who acts as a mandator or mandatary in respect of such an acceptance in a calendar year shall, in prescribed form and manner, file an information return for the year, unless such a return in respect of the tax shelter has already been filed in accordance with this section, containing

(a) the name, address and Social Insurance Number of each individual who so acquired or otherwise invested in the tax shelter in the year and who was resident in Québec at the time of the acquisition or investment;

(b) the amount paid in respect of the tax shelter by each individual referred to in paragraph a; and

(c) such other information as is required by the prescribed form.

History: 1990, c. 59, s. 350; 1993, c. 19, s. 142; 2000, c. 5, s. 283.

Corresponding Federal Provision: 237.1(7).

Time for filing a return.

1079.7.1. An information return required under section 1079.7 to be filed in respect of the acquisition of a tax shelter in a calendar year or an investment in a tax shelter in the year shall be filed with the Minister on or before the last day of February of the following calendar year.

History: 2000, c. 5, s. 284.

Corresponding Federal Provision: 237.1(7.1).

Time for filing - special case.

1079.7.2. Notwithstanding section 1079.7.1, where a person is required under section 1079.7 to file an information return in respect of a business or activity and the person discontinues that business or activity, the return shall be filed on or before the earlier of

(a) the day referred to in section 1079.7.1; and

(b) the day that is 30 days after the day on which the person discontinues the business or activity, as the case may be.

History: 2000, c. 5, s. 284.

Corresponding Federal Provision: 237.1(7.2).

Copies to be provided.

1079.7.3. Every person required to file an information return under section 1079.7 shall, on or before the day on or before which the return is required to be filed with the Minister, forward to each person to whom the return relates a copy of the portion of the return relating to that person.

History: 2000, c. 5, s. 284; 2015, c. 21, s. 498.

Corresponding Federal Provision: 237.1(7.3).

Penalty.

1079.7.4. Every person who files false or misleading information with the Minister in an application under section 1079.2 or issues, sells or accepts consideration in respect of a tax shelter before the Minister has issued an identification number for the tax shelter incurs a penalty equal to the proportion determined under the second paragraph of the greater of

(a) \$500; and

(b) 25% of the greater of

i. the aggregate of all amounts each of which is the consideration received or receivable from a person in respect of the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be, and

ii. the aggregate of all amounts each of which is an amount stated or represented to be the value of property that a particular person who acquires or otherwise invests in the tax shelter could donate to a qualified donee, if the tax shelter is a gifting arrangement and consideration has been received or is receivable from the particular person in respect of the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be.

Proportion.

The proportion to which the first paragraph refers is the proportion that the amount of the aggregate of all amounts each of which is a consideration received or receivable from an individual who, before the time referred to in subparagraph *b* of the first paragraph, acquired or otherwise invested in the tax shelter referred to in that subparagraph *b* and who was resident in Québec at the time of the acquisition or investment is of the aggregate of all amounts each of which is a consideration received or receivable from a person who, before the time referred to in that subparagraph *b*, acquired or otherwise invested in the tax shelter.

History: 2000, c. 5, s. 284; 2013, c. 10, s. 146.

Corresponding Federal Provision: 237.1(7.4).

Penalty.

1079.7.4.1. Every person who is required under section 1079.7 to file an information return and who fails to comply with a demand under section 39 of the Tax Administration Act (chapter A-6.002) to file the return, or to report in the return information required under paragraphs *a* and *b* of section 1079.7, incurs a penalty equal to 25% of the greater of

(a) the aggregate of all amounts each of which is the consideration received or receivable by the person in respect of the tax shelter from a particular person in respect of whom information required under paragraphs *a* and *b* of section 1079.7 had not been reported at or before the time that the demand was issued or the return was filed, as the case may be; and

(b) if the tax shelter is a gifting arrangement, the aggregate of all amounts each of which is an amount stated or represented to be the value of property that the particular person referred to in paragraph *a* could donate to a qualified donee.

History: 2013, c. 10, s. 147.

Corresponding Federal Provision: 237.1(7.5).

Penalty incurred by a partnership.

1079.7.5. Where a partnership incurs a penalty under section 1079.7.4 or 1079.7.4.1, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2000, c. 5, s. 284; 2010, c. 31, s. 175; 2013, c. 10, s. 148; 2017, c. 1, s. 352.

Corresponding Federal Provision: 163(2.9).

Provisions applicable.

1079.8. Where an application for an identification number for a tax shelter has been made under section 1079.2, sections 38 to 40.1 of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications and without restricting the generality thereof, for the purposes of permitting the Minister to verify or ascertain any information in respect of the tax shelter.

Applicability.

The first paragraph applies, notwithstanding that a fiscal return has not been filed by any taxpayer under section 1000 for the taxation year of the taxpayer in which an amount is claimed as a deduction in respect of the tax shelter.

History: 1990, c. 59, s. 350; 1995, c. 63, s. 261; 2000, c. 5, s. 293; 2010, c. 31, s. 175.

Corresponding Federal Provision: 237.1(8).

BOOK X.2
DISCLOSURE OF TRANSACTIONS

TITLE I
DEFINITIONS AND INTERPRETATION

Definitions:

1079.8.1. In this Book,

“adviser”;

“adviser” in respect of a transaction means a person or partnership that provides help, assistance or advice regarding the design or implementation of the transaction, or that commercializes or promotes it;

“confidential transaction”;

“confidential transaction”, carried out by a taxpayer or by a partnership of which a taxpayer is a member, means a transaction under which the taxpayer or partnership retained the services of an adviser in respect of the transaction and under which the contract between the taxpayer and the adviser or between the partnership and the adviser, as the case may be, includes, in relation to the transaction, an undertaking of confidentiality of the taxpayer or partnership towards other persons or towards an income taxation authority in Canada or elsewhere;

“promoter”;

“promoter” has the meaning assigned by section 1079.9;

specified transaction;

“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 and published in the Gazette officielle du Québec;

“tax benefit”;

“tax benefit” means a reduction, avoidance or deferral of the tax or of another amount payable under this Act or an increase in a refund of tax or of another amount under this Act, including a reduction, avoidance or deferral of the tax or of another amount that would be payable under this Act but for a tax agreement, and an increase in a refund of tax or of another amount under this Act that results from a tax agreement;

“transaction”;

“transaction” includes an arrangement or event, and a series of transactions;

“transaction involving conditional remuneration”;

“transaction involving conditional remuneration”, carried out by a taxpayer or by a partnership of which a taxpayer is a member, means, subject to the second paragraph, a transaction in relation to which the remuneration of an adviser in respect of the transaction takes on any of the following forms:

(a) all or part of the remuneration is conditional on obtaining a tax benefit resulting from the transaction or is

determined, in whole or in part, on the basis of the tax benefit;

(b) all or part of the remuneration may be refunded, in any manner whatever, if the expected tax benefit from the transaction fails to materialize;

(c) all or part of the remuneration is earned by the adviser only after the expiry of a prescription period that is provided for in a law and that applies to the taxpayer’s taxation year or taxation years in which the transaction takes place;

“transaction with contractual protection”.

“transaction with contractual protection” carried out by a taxpayer or a partnership of which a taxpayer is a member means a transaction in respect of which the taxpayer has protection consisting of an insurance (other than standard professional liability insurance) or another form of protection, including an indemnity, compensation or guarantee, and designed to

(a) protect the taxpayer against a failure of the transaction to achieve any tax benefit from the transaction;

(b) pay for or reimburse any amount incurred by the taxpayer as an expense, fee, tax, interest, penalty or similar amount in the course of a dispute with a tax authority in Canada or elsewhere in respect of a tax benefit from the transaction; or

(c) help or represent the taxpayer, protect the taxpayer’s rights or provide any other form of assistance to the taxpayer in the course of a dispute with a tax authority in Canada or elsewhere in respect of a tax benefit from the transaction.

Exceptions.

For the purposes of the definition of “transaction involving conditional remuneration” in the first paragraph, the following transactions are excluded:

(a) *(subparagraph repealed)*;

(b) any request related to the analysis and review of an amount of interest payable by a taxpayer under this Act, following an assessment, a reassessment or an additional assessment for a taxation year;

(c) any request related to the review of a fiscal return of a taxpayer for a taxation year following its filing under this Act, unless all or part of the request pertains to an amount the taxpayer is deemed to have paid to the Minister on account of the taxpayer’s tax payable under this Part for a taxation year; and

(d) a transaction in respect of which an agreement has been entered into with a person who is a member of a professional order and under which the result obtained by the person is one of the factors taken into consideration in determining the person’s remuneration, in accordance with a provision of the code of ethics adopted by the professional order under the authority of which the person practises the profession.

Undertaking of confidentiality.

For the purposes of the definition of “confidential transaction” in the first paragraph, it is understood that an undertaking of confidentiality towards other persons does not include a clause providing that an adviser’s professional liability exists only towards the adviser’s client and according to which a third party may not, for that party’s own purposes, rely on the opinion given by the adviser to the client.

For the purposes of this Book, in relation to a transaction determined by the Minister under the definition of “specified transaction” in the first paragraph, the Minister also determines and publishes in the Gazette officielle du Québec which taxpayers will be required to disclose a specified transaction in accordance with section 1079.8.6.2 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.

The obligations provided for in this Book apply in respect of a specified transaction only if the carrying out of the specified transaction begins after the date of publication in the Gazette officielle du Québec of the transaction determined by the Minister to which the specified transaction relates; in that respect, section 1.5 does not apply for the purpose of determining the date on which a specified transaction begins to be carried out.

History: 2010, c. 25, s. 189; 2017, c. 1, s. 353; 2020, c. 16, s. 165.

Contract or undertaking by a corporation associated with, or a person related to, the taxpayer or the partnership.

1079.8.2. For the purposes of the definition of “confidential transaction” in the first paragraph of section 1079.8.1, the following rules apply:

(a) if a contract with an adviser is entered into by a corporation associated with, or a person related to, at the time at which the contract is entered into, the taxpayer or the partnership, the contract is deemed to have been entered into by the taxpayer or the partnership, as the case may be; and

(b) if an undertaking of confidentiality is made with an adviser by a corporation associated with, or a person related to, at the time at which the undertaking is made, the taxpayer or the partnership, the undertaking is deemed to have been made by the taxpayer or the partnership, as the case may be.

History: 2010, c. 25, s. 189.

Rules applicable.

1079.8.3. For the purposes of this Book, the following rules apply:

(a) if a person is a member, or is deemed because of the application of this paragraph to be a member, of a partnership

that is a member of another partnership, the person is deemed to be a member of the other partnership;

(b) for the purpose of determining whether a corporation is associated with, or whether a person is related to, a partnership at a particular time, the partnership is deemed to be a corporation whose taxation year corresponds to the partnership’s fiscal period and all the voting shares in the capital stock of which are owned at that time by each member of the partnership in a proportion equal to the agreed proportion that would be determined in respect of the member for the partnership’s fiscal period if the fiscal period ended at that time; and

(c) for the purpose of determining whether a person is related to a taxpayer or a partnership at a particular time, a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries (in this paragraph referred to as the “distribution date”) and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) are owned at that time by such a beneficiary, if that beneficiary’s share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, and if that time occurs before the distribution date, or

(2) are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries, if subparagraph 1 does not apply and that time occurs before the distribution date,

ii. if a beneficiary’s share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, are owned at that time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at that time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at that time by the person referred to in that section from

whom property of the trust or property for which property of the trust was substituted was directly or indirectly received.

History: 2010, c. 25, s. 189.

Impact on income.

1079.8.4. For the purposes of sections 1079.8.5 to 1079.8.6.1, the following rules apply:

(a) the amount of the impact on a taxpayer's income for a taxation year, resulting from a particular transaction referred to in either of those sections, is to be determined by the formula

$A + B$; and

(b) the amount of the impact on a particular partnership's income for a fiscal period, resulting from a particular transaction referred to in either of those sections, is to be determined by the formula

$C + D$.

Interpretation.

In the formulas in subparagraphs *a* and *b* of the first paragraph,

(a) *A* is the amount by which the taxpayer's income that would be determined for the taxation year if the particular transaction were not taken into account, exceeds the taxpayer's income for the taxation year;

(b) *B* is the amount by which the aggregate of all amounts each of which is the taxpayer's non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss for the taxation year, exceeds the aggregate of all amounts each of which would be the taxpayer's non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss for the taxation year if the particular transaction were not taken into account;

(c) *C* is the amount by which the amount that would be the particular partnership's income for the fiscal period if the particular transaction were not taken into account, exceeds the particular partnership's income for the fiscal period; and

(d) *D* is the amount by which the aggregate of all amounts each of which would have been the particular partnership's non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss for the fiscal period if the particular partnership were a taxpayer whose taxation year coincides with the fiscal period, exceeds the aggregate determined under the third paragraph.

Aggregate referred to.

The aggregate to which subparagraph *d* of the second paragraph refers is the aggregate of all amounts each of which would be the particular partnership's non-capital loss,

farm loss, net capital loss, restricted farm loss or limited partnership loss for the fiscal period if the particular partnership were a taxpayer whose taxation year coincides with the fiscal period and if the particular transaction were not taken into account.

History: 2010, c. 25, s. 189; 2017, c. 1, s. 354.

TITLE II MANDATORY DISCLOSURE

Disclosure of transactions involving conditional remuneration.

1079.8.5. A taxpayer who carries out a transaction involving conditional remuneration or who is a member of a partnership that carries out such a transaction shall, in an information return filed in accordance with section 1079.8.9 and within the time limit provided for in section 1079.8.10, disclose the transaction to the Minister if, but for Title I of Book XI, the transaction would result, directly or indirectly,

(a) in a tax benefit of \$25,000 or more for the taxpayer, or in an impact on the income of the taxpayer of \$100,000 or more, for a taxation year; or

(b) in an impact on the income of the partnership of \$100,000 or more for a fiscal period.

Limited partnership.

Despite the first paragraph, the obligation to disclose provided for in that paragraph applies, in the case of a limited partnership, to all of its general partners and to them only.

History: 2010, c. 25, s. 189; 2011, c. 6, s. 210; 2017, c. 1, s. 355.

Disclosure of confidential transactions.

1079.8.6. A taxpayer who carries out a confidential transaction or who is a member of a partnership that carries out such a transaction shall, in an information return filed in accordance with section 1079.8.9 and within the time limit provided for in section 1079.8.10, disclose the transaction to the Minister if, but for Title I of Book XI, the transaction would result, directly or indirectly,

(a) in a tax benefit of \$25,000 or more for the taxpayer, or in an impact on the income of the taxpayer of \$100,000 or more, for a taxation year; or

(b) in an impact on the income of the partnership of \$100,000 or more for a fiscal period.

Limited partnership.

Despite the first paragraph, the obligation to disclose provided for in that paragraph applies, in the case of a limited partnership, to all of its general partners and to them only.

History: 2010, c. 25, s. 189; 2011, c. 6, s. 211; 2017, c. 1, s. 356.

Disclosure of transactions with contractual protection.

1079.8.6.1. A taxpayer who carries out a transaction with contractual protection or who is a member of a partnership that carries out such a transaction shall, in an information return filed in accordance with section 1079.8.9 and within the time limit provided for in section 1079.8.10, disclose the transaction to the Minister if, but for Title I of Book XI, the transaction would result, directly or indirectly,

(a) in a tax benefit of \$25,000 or more for the taxpayer, or in an impact on the income of the taxpayer of \$100,000 or more, for a taxation year; or

(b) in an impact on the income of the partnership of \$100,000 or more for a fiscal period.

Limited partnership.

Despite the first paragraph, the obligation to disclose provided for in that paragraph applies, in the case of a limited partnership, to all of its general partners and to them only.

History: 2017, c. 1, s. 357.

Disclosure.

1079.8.6.2. A taxpayer who carries out a specified transaction or who is a member of a partnership that carries out such a transaction shall, in an information return filed in accordance with the first paragraph of section 1079.8.9 and within the time limit provided for in section 1079.8.10.1, disclose the transaction to the Minister.

Obligation to disclose the transaction.

The first paragraph applies to a taxpayer who carries out the specified transaction or who is a member of a partnership that carries out the transaction only if the taxpayer is, in accordance with the Minister's determination under the fourth paragraph of section 1079.8.1, subject to the obligation to disclose the transaction.

Limited partnership.

Despite the first paragraph, the obligation to disclose provided for in that paragraph applies, in the case of a limited partnership, to all of its general partners and to them only.

History: 2020, c. 16, s. 166.

Disclosure by adviser or promoter.

1079.8.6.3. An adviser or a promoter who commercializes a transaction or promotes it, or if the adviser or promoter is a partnership, any of its members, shall—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 and published in the Gazette officielle du Québec and if the transaction did not have to be significantly altered in its form and substance to be suitable for implementation with respect

to various taxpayers or partnerships—file an information return in accordance with the second paragraph of section 1079.8.9 and within the time limit provided for in section 1079.8.10.2 in respect of the transaction.

History: 2020, c. 16, s. 166.

Disclosure of nominee contract.

1079.8.6.4. A taxpayer who is a party to a nominee contract entered into in the course of a transaction having tax consequences under this Act or who is a member of a partnership that is a party to such a contract shall, in an information return sent to the Minister under separate cover by registered mail and in the prescribed form, disclose the contract and the transaction to the Minister on or before the 90th day after the date on which the contract was entered into.

Information return.

The information return must contain the following information:

(a) the date the nominee contract was entered into;

(b) the identity of the parties to the nominee contract;

(c) a complete description of the facts of the transaction that is sufficiently detailed to allow the Minister to analyze it and have a proper understanding of the tax consequences;

(d) the identity of any other person or entity in respect of which the transaction has tax consequences; and

(e) such other information as is required by the prescribed form.

Deemed disclosure.

A disclosure made in accordance with the first paragraph by a party to a nominee contract is deemed to be such a disclosure made by any other party to the nominee contract.

Limited partnership.

Despite the first paragraph, the obligation to disclose provided for in that paragraph applies, in the case of a limited partnership, to all of its general partners and to them only.

History: 2020, c. 16, s. 166.

TITLE III PREVENTIVE DISCLOSURE

Preventive disclosure.

1079.8.7. A taxpayer may disclose to the Minister, in an information return that must be filed in accordance with section 1079.8.9 and within the time limit provided for in section 1079.8.10, any transaction that began to be carried out in a taxation year or fiscal period, as the case may be, by

the taxpayer or a partnership of which the taxpayer is a member.

History: 2010, c. 25, s. 189.

Preventive disclosure – additional time limit.

1079.8.7.1. A person who is an enterprise or a member of an enterprise, where the enterprise is a partnership, who is a shareholder of an enterprise, where the enterprise is a corporation, the shareholder is not an enterprise and the shareholder is an associate of an enterprise within the meaning of the second paragraph of section 21.2 of the Act respecting contracting by public bodies (chapter C-65.1), or who is a director or officer of an enterprise registered in the register provided for in section 21.45 of that Act, where the enterprise is a corporation or a partnership, may disclose to the Minister, in the period that begins on 18 September 2019 and ends on 21 April 2020, in an information return that must be filed in accordance with section 1079.8.9, any transaction that began to be carried out in a taxation year or fiscal period, as the case may be, by the enterprise, shareholder, director or officer, as the case may be, and has not been disclosed in accordance with sections 1079.8.5 to 1079.8.6.2 and 1079.8.7.

Definitions.

For the purposes of the first paragraph, “enterprise” has the meaning assigned by section 13.1 of the Act respecting contracting by public bodies and “director” and “officer” mean a director or an officer, as the case may be, referred to in subparagraph 3 of the first paragraph of section 21.26 of that Act.

End of the disclosure period.

Despite the first paragraph, a transaction may not be disclosed on or after the start day of an audit or investigation by Revenu Québec or the Canada Revenue Agency in respect of that transaction.

Start date of an audit.

For the purposes of the third paragraph, the start date of an audit or investigation of a person or partnership, in respect of a transaction, means the day that the person, one of the person’s shareholders, officers or directors or one of the partnership’s members or officers may reasonably be considered to have known or to ought to have known that Revenu Québec or the Canada Revenue Agency was about to undertake or had begun an audit or investigation regarding the transaction.

History: 2020, c. 2, s. 44; 2020, c. 16, s. 167.

**TITLE IV
ADDITIONAL RULES**

Disclosure by member.

1079.8.8. For the purposes of this Book, a disclosure made by a member of a partnership is deemed to have been made by each other member of the partnership.

History: 2010, c. 25, s. 189.

Information return.

1079.8.9. An information return, in respect of a transaction, whose filing is provided for in any of sections 1079.8.5 to 1079.8.6.2, 1079.8.7 and 1079.8.7.1 must be sent to the Minister under separate cover by registered mail, in the prescribed form, and contain the following information:

- (a) the identity of all the parties involved in the transaction and their relationship to each other during the time the transaction was carried out;
- (b) a complete description of the facts relating to the transaction;
- (c) a statement of the tax consequences resulting from the transaction; and
- (d) such other information as is required by the prescribed form.

Exception.

An information return, in respect of a transaction, whose filing is provided for in section 1079.8.6.3 must be sent to the Minister under separate cover by registered mail, in the prescribed form, and contain the following information:

- (a) a complete description of the facts of the transaction; and
- (b) such other information as is required by the prescribed form.

Description of facts and statement of tax consequences.

The description of the facts and the statement of the tax consequences must be sufficiently detailed to allow the Minister to analyze the transaction and have a fair understanding of the tax consequences.

Acknowledgment of receipt by Minister.

The Minister shall acknowledge receipt of the information return referred to in the first paragraph.

History: 2010, c. 25, s. 189; 2020, c. 2, s. 45; 2020, c. 16, s. 168.

Time limit.

1079.8.10. Subject to the second paragraph, the information return, in respect of a transaction, whose filing is

provided for in any of sections 1079.8.5 to 1079.8.6.1 and 1079.8.7 must be sent to the Minister on or before the filing-due date of the taxpayer who carried out the transaction for the taxation year referred to in that section or, if the transaction is carried out by a partnership, on or before the day, determined in accordance with section 1086R80 of the Regulation respecting the Taxation Act (chapter I-3, r. 1), on which the partnership return provided for in section 1086R78 of that Regulation is required to be filed for the partnership's fiscal period referred to in any of sections 1079.8.5 to 1079.8.6.1 and 1079.8.7, as the case may be, or would be required to be so filed but for section 36.1 of the Tax Administration Act (chapter A-6.002).

Exceptions.

For the purposes of sections 1079.8.5 to 1079.8.6.1, the following rules apply:

(a) in the case where the tax benefit resulting from a transaction referred to in any of those sections consists of an amount deemed to have been paid to the Minister on account of the tax payable by a taxpayer under this Part for a taxation year, the information return must be sent to the Minister on or before the expiry of the time limit for filing the prescribed form containing prescribed information in respect of that deemed amount for the year; and

(b) in any other case, where a transaction referred to in any of those sections is carried out after the date or day, as the case may be, referred to in the first paragraph, the information return is deemed to have been filed within the time limit provided for in the first paragraph, in relation to the transaction, if it is filed on or before the date on which the transaction is carried out.

History: 2010, c. 25, s. 189; 2010, c. 31, s. 175; 2017, c. 1, s. 358 [amended by 2017, c. 29, s. 259]; 2020, c. 16, s. 169.

Disclosure by a taxpayer — time limit.

1079.8.10.1. An information return, in respect of a specified transaction, whose filing is provided for in section 1079.8.6.2 must be sent to the Minister on or before the later of

(a) the 60th day after the day determined by the Minister, under the fourth paragraph of section 1079.8.1, from which the obligation to disclose the specified transaction applies; and

(b) the 120th day after the day of the publication in the Gazette officielle du Québec of the transaction determined by the Minister to which the specified transaction relates.

History: 2020, c. 16, s. 170.

Disclosure by an adviser or a promoter — time limit.

1079.8.10.2. An information return, in respect of a particular transaction, whose filing is provided for in section 1079.8.6.3 must be sent to the Minister by an adviser or a promoter on or before the later of

(a) the 60th day after the day on which the adviser or the promoter commercializes the particular transaction or promotes it for the first time; and

(b) the 120th day after the day of the publication in the Gazette officielle du Québec of the transaction determined by the Minister to which the particular transaction relates.

History: 2020, c. 16, s. 170.

Presumption of compliance.

1079.8.11. An information return, in respect of a transaction, whose filing is provided for in any of sections 1079.8.5 to 1079.8.6.3, 1079.8.7 and 1079.8.7.1 and that is sent to the Minister is deemed to have been sent to the Minister in accordance with section 1079.8.9 if, within 120 days after the day on which it was sent, the Minister does not communicate with the person who filed the return in order to obtain additional information in relation to the transaction or the tax consequences resulting from the transaction.

History: 2010, c. 25, s. 189; 2020, c. 2, s. 46; 2020, c. 16, s. 171.

Effect of disclosure.

1079.8.12. For the purposes of Title I of Book XI, the disclosure under this Book of a transaction may not be considered to be an admission with respect to the application of the rules of that Title I to the transaction so disclosed.

History: 2010, c. 25, s. 189.

TITLE V FAILURE TO DISCLOSE

Penalty.

1079.8.13. If, in relation to a transaction to which any of sections 1079.8.5 to 1079.8.6.1 applies, the taxpayer who carried out the transaction or a member of the partnership that carried out the transaction fails to send, in accordance with that section, an information return within the time limit provided for in section 1079.8.10 in respect of the transaction, the taxpayer or the partnership, as the case may be, incurs a penalty of up to \$100,000 comprising a penalty of \$10,000 and a penalty of \$1,000 a day, as of the second day, for every day the failure continues.

Penalties not cumulative.

However, the taxpayer or the partnership, as the case may be, may not incur, in respect of the same failure, both the penalty provided for in the first paragraph and the penalty provided

for in section 59 of the Tax Administration Act (chapter A-6.002).

History: 2010, c. 25, s. 189; 2010, c. 31, s. 175; 2017, c. 1, s. 359; 2020, c. 16, s. 172.

Specified transaction — penalty.

1079.8.13.1. If, in relation to a specified transaction to which section 1079.8.6.2 applies and that is carried out by a taxpayer or a partnership, the taxpayer or a member of the partnership fails to send, in accordance with that section, an information return within the time limit provided for in section 1079.8.10.1 in respect of the transaction, the taxpayer or the partnership, as the case may be, incurs a penalty of up to \$100,000 comprising a penalty of \$10,000 and an additional penalty of \$1,000 a day, as of the second day, for every day the failure continues.

Tax benefit — penalty.

In the case of a failure described in the first paragraph, the taxpayer or the partnership that carries out the specified transaction also incurs a penalty equal to 50% of the tax benefit that, but for Title I of Book XI, would result, directly or indirectly, from the transaction for any taxation year.

Penalties not cumulative.

However, the taxpayer or the partnership, as the case may be, may not incur,

(a) in respect of the same failure, both the penalty provided for in the first paragraph and the penalty provided for in section 59 of the Tax Administration Act (chapter A-6.002); or

(b) in respect of the same transaction, both the penalty provided for in the first paragraph and the penalty provided for in section 1079.8.13.

History: 2020, c. 16, s. 173.

Commercialization or promotion — penalty.

1079.8.13.2. If, in relation to a transaction to which section 1079.8.6.3 applies, an adviser or a promoter who commercializes the transaction or promotes it or, if the adviser or promoter is a partnership, any of its members fails to send, in accordance with that section, an information return within the time limit provided for in section 1079.8.10.2 in respect of the transaction, the promoter or adviser, as the case may be, incurs a penalty of up to \$100,000 comprising a penalty of \$10,000 and an additional penalty of \$1,000 a day, as of the second day, for every day the failure continues.

Fees — penalty.

The promoter or adviser also incurs a penalty equal to 100% of the aggregate of all amounts each of which is a consideration that the promoter or adviser, or a person or

partnership related to or associated with the promoter or adviser, has received or is entitled to receive, directly or indirectly, from any person or partnership for the implementation of the transaction so commercialized or promoted.

Penalties not cumulative.

However, the promoter or adviser may not incur, in respect of the same failure, both the penalty provided for in the first paragraph and the penalty provided for in section 59 of the Tax Administration Act (chapter A-6.002).

History: 2020, c. 16, s. 173.

Nominee contract — penalty.

1079.8.13.3. If a taxpayer who is a party to a nominee contract entered into in the course of a transaction to which section 1079.8.6.4 applies or a member of a partnership that is a party to such a contract fails to send, in accordance with that section, an information return in respect of the contract and the transaction, the taxpayer or the partnership, as the case may be, incurs, solidarily with the other parties to the contract, a penalty of up to \$5,000 comprising a penalty of \$1,000 and an additional penalty of \$100 a day, as of the second day, for every day the failure continues.

Penalties not cumulative.

However, the taxpayer or the partnership, as the case may be, may not incur, in respect of the same failure, both the penalty provided for in the first paragraph and the penalty provided for in section 59 of the Tax Administration Act (chapter A-6.002).

History: 2020, c. 16, s. 173.

Penalty incurred by a partnership.

1079.8.14. If a partnership incurs a penalty under any of sections 1079.8.13 to 1079.8.13.3, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2010, c. 25, s. 189; 2010, c. 31, s. 175; 2017, c. 1, s. 360; 2020, c. 16, s. 174.

Suspension of prescription.

1079.8.15. If, in relation to a taxation year of a particular taxpayer described in the second paragraph for which tax consequences under this Act result from a transaction with contractual protection, a transaction involving conditional remuneration, a confidential transaction or a specified transaction, a taxpayer who carried out the transaction or a member of the partnership that carried out the transaction fails to send, in accordance with any of sections 1079.8.5 to 1079.8.6.2, an information return within the time limit provided for in section 1079.8.10 or 1079.8.10.1, as the case may be, in respect of the transaction, the Minister may,

despite the expiry of the time limits provided for in section 1010, redetermine the tax, interest and penalties or any other amount, under this Act, and make a redetermination, reassessment or additional assessment for the taxation year in respect of the particular taxpayer

(a) on or before the day that is three years after the day on which an information return containing the information required by section 1079.8.9 is sent to the Minister in respect of the transaction, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the period referred to in paragraph *a* of subsection 2 of section 1010;

(b) on or before the day that is four years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the period referred to in paragraph *a.0.1* of subsection 2 of section 1010;

(c) on or before the day that is six years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the first period referred to in paragraph *a.1* of subsection 2 of section 1010 and if any of the conditions in subparagraphs i to vii of that paragraph *a.1* is applicable in respect of the transaction; or

(d) on or before the day that is seven years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the second period referred to in paragraph *a.1* of subsection 2 of section 1010 and if any of the conditions in subparagraphs i to vii of that paragraph *a.1* is applicable in respect of the transaction.

Particular taxpayer.

The particular taxpayer to which the first paragraph refers, in relation to a taxation year for which tax consequences under this Act result from a transaction referred to in that paragraph, is

(a) the taxpayer who carried out the transaction;

(b) each taxpayer who is a member of the partnership that carried out the transaction, at the end of the partnership's fiscal period that ends in the taxation year;

(c) a corporation that is associated with the taxpayer or the partnership that carried out the transaction, at the time the transaction is carried out;

(d) a corporation that is associated with a taxpayer who is a member of the partnership that carried out the transaction, at the time the transaction is carried out;

(e) a person who is related to the taxpayer or the partnership that carried out the transaction, at the time the transaction is carried out; or

(f) a person who is related to a taxpayer who is a member of the partnership that carried out the transaction, at the time the transaction is carried out.

Restriction.

However, the Minister may, in respect of a taxation year for which tax consequences under this Act result from a transaction referred to in the first paragraph, make a reassessment or an additional assessment under the first paragraph only to the extent that the reassessment or additional assessment may reasonably be considered to relate to those tax consequences.

History: 2010, c. 25, s. 189; 2017, c. 1, s. 361.

Nominee contract — suspension of prescription.

1079.8.15.1. If a particular taxpayer is a party to a nominee contract entered into in the course of a transaction or is a member of a partnership that is a party to such a contract and if, in relation to a taxation year of the particular taxpayer for which tax consequences under this Act result from the transaction, the particular taxpayer fails to send, in accordance with section 1079.8.6.4, an information return in respect of the contract and the transaction, the Minister may, despite the expiry of the time limits provided for in section 1010, redetermine the tax, interest and penalties or any other amount, under this Act and make a redetermination, reassessment or additional assessment for the taxation year in respect of the particular taxpayer

(a) on or before the day that is three years after the day on which an information return containing the information required by section 1079.8.6.4 is sent to the Minister in respect of the transaction, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the period referred to in paragraph *a* of subsection 2 of section 1010;

(b) on or before the day that is four years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the period referred to in paragraph *a.0.1* of subsection 2 of section 1010;

(c) on or before the day that is six years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided

for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the first period referred to in paragraph *a.1* of subsection 2 of section 1010 and if any of the conditions in subparagraphs i to vii of that paragraph *a.1* is applicable in respect of the transaction; or

(*d*) on or before the day that is seven years after the day referred to in subparagraph *a*, if the period for which the Minister could, before the expiry of the time limits provided for in section 1010, make a reassessment or an additional assessment in respect of the particular taxpayer is the second period referred to in paragraph *a.1* of subsection 2 of section 1010 and if any of the conditions in subparagraphs i to vii of that paragraph *a.1* is applicable in respect of the transaction.

Restriction.

However, the Minister may, in respect of a taxation year for which tax consequences under this Act result from a transaction referred to in the first paragraph, make a reassessment or an additional assessment under the first paragraph only to the extent that the reassessment or additional assessment may reasonably be considered to relate to those tax consequences.

History: 2020, c. 16, s. 176.

BOOK X.3

CERTIFICATE FROM REVENU QUÉBEC

TITLE I

CONSTRUCTION CONTRACT

Definitions:

1079.8.16. In this Title,

“construction contract”;

“construction contract” means a contract performed in Québec that provides for construction work in respect of which the person carrying it out must hold a licence required under Chapter IV of the Building Act (chapter B-1.1);

“contractor”;

“contractor” means a person that has an establishment in Québec and carries on a business in Québec, and causes to be carried out, in whole or in part, construction work for which the person must hold a licence required under Chapter IV of the Building Act;

“person”;

“person” includes a partnership and a consortium;

“subcontractor”.

“subcontractor” means a person that has an establishment in Québec and carries on a business in Québec in the course of which the person carries out construction work for which the person must hold a licence required under Chapter IV of the Building Act.

History: 2015, c. 8, s. 89.

Obligations of a subcontractor.

1079.8.17. A subcontractor must, at any time in a calendar year and in the period that begins on the date a bid for a particular construction contract with a contractor is submitted and ends on the seventh day after the date the construction work arising from the contract begins, where the total cost of either the particular contract and the construction contracts the subcontractor and the contractor entered into previously in the calendar year or the cost of such contracts they entered into in a previous calendar year is equal to or greater than \$25,000, hold a valid certificate from Revenu Québec and give a copy to the contractor.

Partnership or consortium.

If the subcontractor is a partnership or a consortium, each member, other than a specified member, of the partnership or each member of the consortium must also, at the time referred to in the first paragraph, hold a valid certificate from Revenu Québec, and the subcontractor must, at such a time, give a copy to the contractor.

Cost of a construction contract.

For the purposes of the first paragraph, the following rules apply:

(*a*) the cost of a construction contract is determined without reference to the Québec sales tax or the goods and services tax in respect of the contract; and

(*b*) no account is to be taken of a construction contract entered into before 1 March 2016.

Presumption.

For the purposes of the first and second paragraphs, if the subcontractor or, where the subcontractor is a partnership or a consortium, one of the partnership’s or consortium’s members holds, at the time referred to in the first paragraph, a valid certificate from Revenu Québec of which a copy has already been given to the contractor in accordance with this section because the certificate applies in respect of another construction contract the subcontractor and the contractor have entered into, the subcontractor is deemed to have given that copy of the certificate to the contractor at that time.

Exception.

The first paragraph does not apply in respect of a particular construction contract that must be entered into because of an emergency that threatens human safety or property.

History: 2015, c. 8, s. 89.

Obligations of a contractor.

1079.8.18. A contractor must, at any time in the period that begins on the date a bid for a construction contract referred to in section 1079.8.17 with a subcontractor is

submitted and ends on the seventh day after the date the construction work arising from the contract begins, obtain from the subcontractor a copy of a Revenu Québec certificate referred to in section 1079.8.17, ensure that it is valid and, not later than the tenth day after the date the work begins, verify its authenticity with Revenu Québec in the prescribed manner.

Presumption.

For the purposes of the first paragraph, if the contractor has already obtained from the subcontractor a copy of a Revenu Québec certificate that is valid at the time referred to in the first paragraph, and has ensured that it is valid and verified its authenticity in accordance with that paragraph because the certificate applies in respect of another construction contract they have entered into, the contractor is deemed, at that time, to have obtained a copy of that certificate, ensured that it was valid and verified its authenticity in accordance with the first paragraph.

History: 2015, c. 8, s. 89.

Application for a certificate from Revenu Québec.

1079.8.19. Applications for a certificate from Revenu Québec must be made in the prescribed manner.

Requirements for issuance.

A certificate from Revenu Québec is issued to a person that, on the date specified in the certificate, has filed the returns and reports required under fiscal laws and has no overdue amount payable under such laws; this is the case, in particular, where recovery of such an amount has been legally suspended or, if arrangements have been made with the person to ensure payment of the amount, the person has not defaulted on the payment arrangements.

Validity period.

A certificate is valid until the end of the three-month period following the month in which it was issued.

History: 2015, c. 8, s. 89.

Penalty for failure to comply with an obligation under section 1079.8.17.

1079.8.20. A person that fails to comply with an obligation under section 1079.8.17 in relation to a construction contract incurs a penalty equal to the greatest of

- (a) \$500;
- (b) 1% of the cost of the contract, without exceeding \$2,500; and
- (c) \$2,500 if it is not possible to determine the cost of the contract.

Failure to remedy non-compliance.

A person that incurs a penalty under the first paragraph incurs an additional penalty equal to the greatest of the following amounts if the person, or a partnership or consortium of which the person is a member, has received an amount for the performance of obligations under the contract without having remedied any failure referred to in the first paragraph:

- (a) \$250;
- (b) 2% of the amount received, if the cost of the contract is less than \$100,000, without exceeding \$2,000; and
- (c) 5% of the amount received, if the cost of the contract is equal to or greater than \$100,000 or if it is not possible to determine the cost, without exceeding \$5,000.

History: 2015, c. 8, s. 89.

Penalty for contractor failing to obtain copy of certificate from subcontractor involved.

1079.8.21. A contractor that fails to obtain a copy of a certificate or ensure that it is valid in accordance with section 1079.8.18 in relation to a construction contract incurs a penalty equal to the greatest of

- (a) \$500;
- (b) 1% of the cost of the contract, without exceeding \$2,500; and
- (c) \$2,500 if it is not possible to determine the cost of the contract.

Failure to remedy non-compliance.

A contractor that incurs a penalty under the first paragraph and has paid an amount for the performance of obligations under the contract without having remedied any failure referred to in the first paragraph incurs an additional penalty equal to the greatest of

- (a) \$250;
- (b) 2% of the amount paid, if the cost of the contract is less than \$100,000, without exceeding \$2,000; and
- (c) 5% of the amount paid, if the cost of the contract is equal to or greater than \$100,000 or if it is not possible to determine the cost, without exceeding \$5,000.

History: 2015, c. 8, s. 89.

Penalty for contractor failing to verify certificate.

1079.8.22. A contractor that fails to verify the authenticity of a certificate in accordance with section 1079.8.18 in relation to a construction contract incurs a penalty equal to the greater of

(a) \$250; and

(b) 0.5% of the cost of the contract, without exceeding \$1,250.

History: 2015, c. 8, s. 89.

Minister's notice.

1079.8.23. A person incurs a penalty under any of sections 1079.8.20 to 1079.8.22 only if a notice from the Minister has been sent to the person, by registered mail, concerning a failure to comply with an obligation under this Title.

History: 2015, c. 8, s. 89.

Subsequent failure.

1079.8.24. In the case of a subsequent failure during the three years after the date on which a notice of assessment imposing a penalty under any of sections 1079.8.20 to 1079.8.22 is sent, the amount of the penalty that would otherwise be determined under any of those sections in respect of the subsequent failure is doubled.

History: 2015, c. 8, s. 89; 2017, c. 29, s. 202.

TITLE II PERSONNEL PLACEMENT AGENCY

Definitions:

1079.8.25. In this Title,

“client”;

“client” means a person, other than a public body, that has an establishment in Québec and carries on a business in Québec;

“person”;

“person” includes a partnership;

“personnel placement agency”;

“personnel placement agency” means a person that has an establishment in Québec and carries on a business in Québec whose activities consist in offering personnel placement services or temporary help services;

“personnel placement or temporary help contract”;

“personnel placement or temporary help contract” means a contract entered into between a personnel placement agency and a client for the provision of personnel placement services or temporary help services that consist in providing workers needed to meet the temporary workforce needs of the client, another person or a public body in the course of carrying on their business or their activities, as applicable;

“public body”.

“public body” means a person or body referred to in any of sections 4 to 7 of the Act respecting contracting by public bodies (chapter C-65.1), a municipality, a metropolitan community, a mixed enterprise company governed by the Act

respecting mixed enterprise companies in the municipal sector (chapter S-25.01) or a public transit authority.

History: 2015, c. 8, s. 89.

Obligations of a personnel placement agency.

1079.8.26. A personnel placement agency must, at any time in a calendar year and in the period that begins on the date a bid for a particular personnel placement or temporary help contract with a client is submitted and ends on the seventh day after the date the provision of services arising from the contract begins, where the total cost of either the particular contract and the personnel placement or temporary help contracts the personnel placement agency and the client entered into previously in the calendar year or the cost of such contracts they entered into in a previous calendar year is equal to or greater than \$25,000, hold a valid certificate from Revenu Québec and give a copy to the client.

Partnership.

If the personnel placement agency is a partnership, each member, other than a specified member, of the partnership must also, at the time referred to in the first paragraph, hold a valid certificate from Revenu Québec, and the agency must, at such a time, give a copy to the client.

Cost of a personnel placement or temporary help contract.

For the purposes of the first paragraph, the following rules apply:

(a) the cost of a personnel placement or temporary help contract is determined without reference to the Québec sales tax or the goods and services tax in respect of the contract; and

(b) no account is to be taken of a personnel placement or temporary help contract entered into before 1 March 2016.

Presumption.

For the purposes of the first and second paragraphs, if the personnel placement agency or, where the agency is a partnership, one of the partnership's members holds, at the time referred to in the first paragraph, a valid certificate from Revenu Québec of which a copy has already been given to the client in accordance with this section because the certificate applies in respect of another personnel placement or temporary help contract the agency and the client have entered into, the agency is deemed to have given that copy of the certificate to the client at that time.

Exception.

The first paragraph does not apply in respect of a particular personnel placement or temporary help contract that must be entered into because of an emergency that threatens human safety or property.

History: 2015, c. 8, s. 89.

Obligations of the client.

1079.8.27. A client must, at any time in the period that begins on the date a bid for a contract referred to in section 1079.8.26 with a personnel placement agency is submitted and ends on the seventh day after the date the provision of services arising from the contract begins, obtain from the agency a copy of a Revenu Québec certificate referred to in section 1079.8.26, ensure that it is valid and, not later than the tenth day after the date the provision of services begins, verify its authenticity in the manner provided for in section 1079.8.18.

Presumption.

For the purposes of the first paragraph, if the client has already obtained from the personnel placement agency a copy of a Revenu Québec certificate that is valid at the time referred to in the first paragraph, and has ensured that it is valid and verified its authenticity in accordance with that paragraph because the certificate applies in respect of another personnel placement or temporary help contract they have entered into, the client is deemed, at that time, to have obtained a copy of that certificate, ensured that it was valid and verified its authenticity in accordance with the first paragraph.

History: 2015, c. 8, s. 89.

Obligations of the personnel placement agency and the client.

1079.8.28. Throughout the period during which a contract referred to in section 1079.8.26 and entered into between a personnel placement agency and a client is being performed,

(a) the personnel placement agency and, if it is a partnership, each member, other than a specified member, of the partnership must, within 15 days after the end of the period of validity of a certificate, obtain a new certificate from Revenu Québec, and the agency must, within that time, give a copy to the client; and

(b) the client must, within 30 days after the end of the period of validity of a certificate, obtain from the agency a copy of a new Revenu Québec certificate referred to in paragraph *a*, ensure that it is valid and verify its authenticity in the manner provided for in section 1079.8.18.

History: 2015, c. 8, s. 89.

Application for a certificate from Revenu Québec.

1079.8.29. Applications for a certificate from Revenu Québec must be made in the manner provided for in section 1079.8.19.

Requirements for issuance.

A certificate from Revenu Québec is issued to a person that, on the date specified in the certificate, has filed the returns

and reports required under fiscal laws and has no overdue amount payable under such laws; this is the case, in particular, where recovery of such an amount has been legally suspended or, if arrangements have been made with the person to ensure payment of the amount, the person has not defaulted on the payment arrangements.

Validity period.

A certificate is valid until the end of the three-month period following the month in which it was issued.

History: 2015, c. 8, s. 89.

Penalty for failure to hold a valid certificate or to give a copy to the client.

1079.8.30. A person that fails to comply with an obligation under section 1079.8.26 or paragraph *a* of section 1079.8.28 in relation to a personnel placement or temporary help contract incurs a penalty equal to the greatest of

(a) \$500;

(b) 1% of the cost of the contract, without exceeding \$2,500; and

(c) \$2,500 if it is not possible to determine the cost of the contract.

Failure to remedy non-compliance.

A person that incurs a penalty under the first paragraph incurs an additional penalty equal to the greatest of the following amounts if the person, or a partnership of which the person is a member, has received an amount for the performance of obligations under the contract without having remedied any failure referred to in the first paragraph:

(a) \$250;

(b) 2% of the amount received, if the cost of the contract is less than \$100,000, without exceeding \$2,000; and

(c) 5% of the amount received, if the cost of the contract is equal to or greater than \$100,000 or if it is not possible to determine the cost, without exceeding \$5,000.

History: 2015, c. 8, s. 89.

Penalty for client failing to obtain copy of certificate from the personnel placement agency involved.

1079.8.31. A client that fails to obtain a copy of a certificate or ensure that it is valid in accordance with section 1079.8.27 or paragraph *b* of section 1079.8.28 in relation to a personnel placement or temporary help contract incurs a penalty equal to the greatest of

(a) \$500;

(b) 1% of the cost of the contract, without exceeding \$2,500; and

(c) \$2,500 if it is not possible to determine the cost of the contract.

Failure to remedy non-compliance.

A client that incurs a penalty under the first paragraph and has paid an amount for the performance of obligations under the contract without having remedied any failure referred to in the first paragraph incurs an additional penalty equal to the greatest of

(a) \$250;

(b) 2% of the amount paid, if the cost of the contract is less than \$100,000, without exceeding \$2,000; and

(c) 5% of the amount paid, if the cost of the contract is equal to or greater than \$100,000 or if it is not possible to determine the cost, without exceeding \$5,000.

History: 2015, c. 8, s. 89.

Penalty for client failing to verify certificate.

1079.8.32. A client that fails to verify the authenticity of a certificate in accordance with section 1079.8.27 or paragraph *b* of section 1079.8.28 in relation to a personnel placement or temporary help contract incurs a penalty equal to the greater of

(a) \$250; and

(b) 0.5% of the cost of the contract, without exceeding \$1,250.

History: 2015, c. 8, s. 89.

Minister's notice.

1079.8.33. A person incurs a penalty under any of sections 1079.8.30 to 1079.8.32 only if a notice from the Minister has been sent to the person, by registered mail, concerning a failure to comply with an obligation under this Title.

History: 2015, c. 8, s. 89.

Subsequent failure.

1079.8.34. In the case of a subsequent failure during the three years after the date on which a notice of assessment imposing a penalty under any of sections 1079.8.30 to 1079.8.32 is sent, the amount of the penalty that would otherwise be determined under any of those sections in respect of the subsequent failure is doubled.

History: 2015, c. 8, s. 89; 2017, c. 29, s. 203.

**TITLE II.1
BUSINESSES PERFORMING MAINTENANCE
WORK IN PUBLIC BUILDINGS**

Interpretation.

1079.8.34.1. In this Title,

“maintenance work”;

“maintenance work” means maintenance work to which the Decree respecting building service employees in the Montréal region (chapter D-2, r. 15) or the Decree respecting building service employees in the Québec region (chapter D-2, r. 16) applies;

“maintenance work business”;

“maintenance work business” means a person who has an establishment in Québec and causes maintenance work to be performed, in whole or in part, by a subcontractor, except a person who is the owner, lessee or administrator of the public building in which the maintenance work is to be performed;

“maintenance work contract”;

“maintenance work contract” means a contract or part of a contract that is entered into between a maintenance work business and a subcontractor, is carried out in Québec and provides for maintenance work;

“person”;

“person” includes a partnership;

“subcontractor”.

“subcontractor” means a person who has an establishment in Québec and performs maintenance work.

Rules applicable.

For the purposes of this Title, the following rules apply:

(a) the cost of a maintenance work contract is determined without reference to the Québec sales tax or the goods and services tax in respect of the contract;

(b) except for determining, for the purposes of subparagraph *b* of the first paragraph of section 1079.8.34.2, the cost of the maintenance work contracts entered into between a subcontractor and a maintenance work business in a calendar year, every contract entered into between a maintenance work business and a subcontractor, while the subcontractor is holding a valid certificate referred to in section 1079.8.34.2 because of another maintenance work contract entered into between them, is deemed to be the same contract as that other contract; and

(c) where the portion of the cost of a maintenance work contract entered into before 1 January 2021 that is attributable to maintenance work performed after 31 December 2020 is equal to or greater than \$10,000, or where under an indeterminate-term maintenance work contract entered into before 1 January 2021, maintenance work is performed after 31 December 2020, the following rules apply:

i. the contract is deemed to have been entered into on 1 January 2021 and, if the maintenance work provided for in the contract began before that date, is deemed to have begun on that date, and

ii. the first amount that the maintenance work business is required to report under the second paragraph of section 1079.8.34.3, in relation to the maintenance work contract, must include any amount that has been billed to it by the subcontractor before 1 January 2021 for maintenance work provided for in the contract and performed after 31 December 2020.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

Obligations of subcontractor.

1079.8.34.2. A subcontractor must hold a valid certificate from Revenu Québec throughout the period that begins on the date of the beginning of the maintenance work provided for in a particular maintenance work contract entered into by the subcontractor in a calendar year and after 31 December 2020 with a maintenance work business and that ends on the date of the end of the maintenance work provided for in the contract, where

(a) the particular maintenance work contract is an indeterminate-term contract;

(b) the total cost of the particular maintenance work contract and of the maintenance work contracts they entered into with each other previously in the calendar year, or the total cost of such contracts they entered into in a previous calendar year, is equal to or greater than \$10,000; or

(c) the subcontractor and the maintenance work business have previously entered into a contract with each other in respect of which this section has applied because of subparagraph *a*.

Copy of certificate.

A subcontractor who entered into a maintenance work contract with a maintenance work business must give the business a copy of each certificate the subcontractor is required to hold under the first paragraph, on or before the day on which the maintenance work provided for in the contract begins or, in the case of a subsequent certificate, the day that follows the last day of the period of validity of the preceding certificate.

Exception.

This section does not apply to a subcontractor who, on the day the maintenance work provided for in the contract begins, does not hold a registration certificate issued under Title I of the Act respecting the Québec sales tax (chapter T-0.1).

Registration of subcontractor.

However, where the subcontractor becomes, after the day referred to in the third paragraph and before the day on which the maintenance work provided for in the contract ends, the holder of a registration certificate under Title I of the Act respecting the Québec sales tax, the following rules apply:

(a) the contract is deemed to have been entered into on the particular date that is 30 days after the date on which the subcontractor became the holder of such a certificate and the maintenance work provided for in the contract is deemed to have begun on the particular date; and

(b) the first amount that the maintenance work business is required to report under the second paragraph of section 1079.8.34.3, in relation to the maintenance work contract, must include any amount that was billed to it by the subcontractor before the particular date for maintenance work provided for in the contract and performed after that date.

Obligations d'une entreprise d'entretien.Transitional rule.

For the purposes of subparagraph *b* of the first paragraph, no reference is to be made to the portion of the cost of a maintenance work contract attributable to maintenance work performed before 1 January 2021.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

1079.8.34.3. A maintenance work business that has entered into a particular maintenance work contract with a subcontractor must obtain from the subcontractor a copy of each certificate that the subcontractor is required to hold under the first paragraph of section 1079.8.34.2 because of that contract, ensure that it is valid and verify its authenticity in the prescribed manner, on or before the day on which the maintenance work provided for in the contract begins or, in the case of a subsequent certificate, the day that follows the last day of the period of validity of the preceding certificate.

The maintenance work business described in the first paragraph must also, on or before the day provided for in the third paragraph, report, in the prescribed manner, an amount that is the aggregate of the amounts that it was billed by the subcontractor in relation to the maintenance work provided for in the particular maintenance work contract, in each of the quarters ending on 31 March, 30 June, 30 September and 31 December in a year.

The day to which the second paragraph refers is the last day of the month following the month in which the quarter referred to in that paragraph ends.

The first amount that the maintenance work business must report under the second paragraph must also include any amount billed in respect of the particular contract before the beginning of the maintenance work.

This section does not apply to a maintenance work business that, on the day the maintenance work provided for in a contract begins, does not hold a registration certificate issued under Title I of the Act respecting the Québec sales tax (chapter T-0.1).

However, where the maintenance work business becomes, after the day referred to in the fifth paragraph and before the day on which the maintenance work provided for in the contract ends, the holder of a registration certificate under Title I of the Act respecting the Québec sales tax, this section applies to the maintenance work business as if the maintenance work provided for in the contract has begun on the date that is 30 days after the date on which the business became the holder of such a certificate.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

Applications for a certificate from Revenu Québec.

1079.8.34.4. Applications for a certificate from Revenu Québec must be made in the manner provided for in section 1079.8.19.

Conditions of issue.

A certificate from Revenu Québec is issued to a person who, on the date specified in the certificate, has filed the returns and reports required under fiscal laws and has no overdue amount payable under such laws; this is the case, in particular, where recovery of such an amount has been legally suspended or, if arrangements have been made with the person to ensure payment of the amount, the person has not defaulted on the payment arrangements.

Partnership.

Where a partnership is registered with Revenu Québec as an employer, a certificate is issued to it only if, on the date specified in the certificate, it meets the conditions of the second paragraph and has performed, as at that date, all the obligations of a fiscal law imposed on its members, as employers.

Validity period.

A certificate is valid until the end of the three-month period (in this Title referred to as the “period of validity”) following the month in which it was issued.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

1079.8.34.5. A subcontractor who fails to comply with any of the obligations provided for in section 1079.8.34.2, in

relation to a particular maintenance work contract entered into with a maintenance work business, incurs—for each of the quarters that end on 31 March, 30 June, 30 September and 31 December in a year and in which the subcontractor failed to comply with such an obligation—a penalty equal to the greater of

- (a) \$175; and
- (b) the lesser of

- i. the product obtained by multiplying the amount that is 0.2% of the aggregate of the amounts billed under the particular contract, without reference to the Québec sales tax or the goods and services tax, by the subcontractor to the maintenance work business in that quarter by the number of days of non-compliance included in that quarter, and

- ii. \$950.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

1079.8.34.6. A maintenance work business that fails to comply with any of the obligations provided for in section 1079.8.34.3, in relation to a particular maintenance work contract entered into with a subcontractor, incurs—for each particular quarter referred to in the second paragraph of section 1079.8.34.3 in which the business failed to comply with an obligation provided for in the first paragraph of that section or in respect of which the business failed to comply with the obligation provided for in the second paragraph of that section—a penalty equal to the greater of

- (a) \$350; and
- (b) the lesser of

- i. the product obtained by multiplying the amount that is 0.4% of the aggregate of the amounts billed under the particular contract, without reference to the Québec sales tax or the goods and services tax, by the subcontractor to the maintenance work business in the particular quarter by the greater of

- (1) the number of days during which the non-compliance of an obligation referred to in the first paragraph of section 1079.8.34.3 continues and that are included in the particular quarter, and

- (2) the number of days during which the non-compliance of an obligation referred to in the second paragraph of section 1079.8.34.3 in respect of the particular quarter continues, up to 90, and

- ii. \$2,850.

However, the maintenance work business may not incur, in respect of the same failure to comply, both the penalty

provided for in the first paragraph and the penalty provided for in section 59 of the Tax Administration Act (chapter A-6.002).

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

Penalty for subsequent failure.

1079.8.34.7. In the case of a subsequent failure during the three years after the date on which a notice of assessment imposing a penalty provided for in section 1079.8.34.5 or 1079.8.34.6 is sent, the amount of the penalty that would otherwise be determined under either of those sections in respect of the subsequent failure is doubled.

History: 2020, c. 5, s. 15 [in force: O.C. 1080-2020].

TITLE III OFFENCES AND ADMINISTRATION

Offences in relation to falsifying a Revenu Québec certificate.

1079.8.35. Any person that

- (a) makes a false Revenu Québec certificate,
- (b) falsifies or alters a Revenu Québec certificate,
- (c) obtains or attempts to obtain, in any manner, a Revenu Québec certificate, knowing that the person or another person is not entitled to such a certificate,
- (d) uses a document referred to in any of subparagraphs *a* to *c*, or any other related document,
- (e) assents to or acquiesces in an offence referred to in any of subparagraphs *a* to *d*, or
- (f) conspires with a person to commit an offence referred to in any of subparagraphs *a* to *e*,

is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

Subsequent offence.

For a subsequent offence within five years, the minimum and maximum fines set out in the first paragraph are doubled.

History: 2015, c. 8, s. 89.

Penalty on conviction.

1079.8.36. A person found guilty of an offence under section 1079.8.35 does not incur the penalty provided for in any of sections 1079.8.20 to 1079.8.22, 1079.8.30 to 1079.8.32, 1079.8.34.5 and 1079.8.34.6 unless it was imposed on the person before proceedings were instituted against the person under section 1079.8.35.

History: 2015, c. 8, s. 89; 2020, c. 5, s. 16 [in force: O.C. 1080-2020].

Prescription.

1079.8.37. Penal proceedings for an offence under section 1079.8.35 are prescribed eight years from the date the offence was committed.

History: 2015, c. 8, s. 89.

Audits and examinations.

1079.8.38. Sections 38 and 39.2 of the Tax Administration Act (chapter A-6.002) apply, with the necessary modifications, to this Book.

History: 2015, c. 8, s. 89.

Penalty for a partnership or consortium: provisions applicable.

1079.8.39. If a partnership or a consortium incurs a penalty under any of sections 1079.8.20 to 1079.8.22, 1079.8.30 to 1079.8.32, 1079.8.34.5 and 1079.8.34.6, the following provisions apply, with the necessary modifications, in respect of the penalty as though the partnership or consortium were a corporation:

(a) sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1; and

(b) sections 14, 14.4 to 14.6, Division II.1 of Chapter III and Chapters III.1 and III.2 of the Tax Administration Act (chapter A-6.002).

History: 2015, c. 8, s. 89; 2020, c. 5, s. 17 [in force: O.C. 1080-2020].

Recovery measures.

1079.8.40. Sections 12.0.2 and 12.0.3 of the Tax Administration Act (chapter A-6.002) do not apply in respect of an amount resulting from a notice of assessment issued as a consequence of the application of this Book.

History: 2015, c. 8, s. 89.

Affidavit evidence.

1079.8.41. For the purposes of this Book, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee is entrusted with the appropriate registers and that, having carefully analyzed them, the employee found it impossible to determine whether a person either holds a certificate from Revenu Québec or has verified its authenticity, in accordance with Title I or II of this Book, is proof, in the absence of proof to the contrary, that the person does not hold a certificate from Revenu Québec or has not verified its authenticity, as applicable.

History: 2015, c. 8, s. 89.

Presumption.

1079.8.42. When proof is provided under section 1079.8.41 by an affidavit of an employee of the Agence du

revenu du Québec, it is not necessary to prove the employee's signature or status as an employee, and the address of the office of the Agence du revenu du Québec being the usual place of work of the signatory is a sufficient indication of the signatory's address.

History: 2015, c. 8, s. 89.

BOOK XI TAX EVASION

TITLE I TAX AVOIDANCE

Definitions:

1079.9. For the purposes of this Title and section 1006.1,

“promoter”;

“promoter” of a transaction or a series of transactions means a person or a partnership in respect of which the following conditions are met:

(a) the person or partnership commercializes the transaction or series of transactions, promotes it or otherwise supports its development or the interest it generates;

(b) the person or partnership receives or is entitled to receive, directly or indirectly, a consideration for the commercialization, promotion or support, or another person or partnership related to, or associated with, the person or partnership receives or is entitled to so receive such a consideration; and

(c) it is reasonable to consider that the person or partnership assumes an important role in the commercialization, promotion or support;

“tax benefit”;

“tax benefit” means a reduction, avoidance or deferral of the tax or of another amount payable under this Act or an increase in a refund of tax or of another amount under this Act, including a reduction, avoidance or deferral of the tax or of another amount that would be payable under this Act but for a tax agreement, and an increase in a refund of tax or of another amount under this Act that results from a tax agreement;

“tax consequences”;

“tax consequences” to a person means the amount of income, taxable income, or taxable income earned in Canada of, tax or other amount payable by, or refundable to the person under this Act, or any other amount that is relevant for the purposes of computing that amount;

“transaction”.

“transaction” includes an arrangement or event.

Interpretation.

The definition of “tax agreement” in section 1 is deemed, for the purposes of this Title, to have effect from 13 September 1988.

Interpretation.

For the purposes of paragraph *c* of the definition of “promoter” in the first paragraph, the following rules apply in respect of an employee of a person or partnership:

(a) the employee, other than a specified employee, is not considered to assume an important role in the person's or partnership's commercialization of, promotion of or support of the development of or interest in a transaction or series of transactions; and

(b) the conduct of the employee is deemed to be the conduct of the person or partnership.

History: 1990, c. 59, s. 351; 2006, c. 13, s. 203; 2010, c. 25, s. 190.

Corresponding Federal Provision: 245(1).

Related or associated persons or partnerships.

1079.9.1. For the purposes of the definition of “promoter” in the first paragraph of section 1079.9 and section 1079.13.2, the following rules apply:

(a) for the purpose of determining whether, at a particular time, a person or a partnership is associated with, or related to, another person or partnership, a partnership is deemed to be a corporation whose taxation year corresponds to its fiscal period and all the voting shares in the capital stock of which are owned at that time by each of its members in a proportion equal to the agreed proportion that would be determined in respect of the member for the partnership's fiscal period if the fiscal period ended at that time; and

(b) for the purpose of determining whether, at a particular time, a person or a partnership is related to another person or partnership, a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries (in this paragraph referred to as the “distribution date”) and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) are owned at that time by such a beneficiary, if that beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if that time occurs before the distribution date, or

(2) are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries, if subparagraph 1 does not apply and that time occurs before the distribution date,

ii. if a beneficiary's share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at that time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at that time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at that time by the person referred to in that section from whom property of the trust or property for which property of the trust was substituted was directly or indirectly received.

History: 2010, c. 25, s. 191.

General anti-avoidance rule.

1079.10. Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this Title, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

History: 1990, c. 59, s. 351.

Corresponding Federal Provision: 245(2).

Avoidance transaction.

1079.11. An avoidance transaction is any transaction that, but for this Title, would result, directly or indirectly, in a tax benefit or that is part of a series of transactions, which series, but for this Title, would result, directly or indirectly, in a tax benefit, unless the transaction in either case may reasonably be considered to have been undertaken or arranged primarily for *bona fide* purposes.

Bona fide purposes.

For the purposes of the first paragraph, the following purposes of a transaction or a combination of them are not considered as *bona fide* purposes:

- (a) the obtainment of a tax benefit;
- (b) the reduction, avoidance or deferral of tax or of another amount payable as tax or in respect of tax under an Act of Canada or of a province, other than this Act; and
- (c) the increase of a refund of tax or of another amount as tax or in respect of tax under an Act of Canada or of a province, other than this Act.

History: 1990, c. 59, s. 351; 1996, c. 39, s. 258; 2010, c. 25, s. 192; 2011, c. 6, s. 212.

Corresponding Federal Provision: 245(3).

Exception.

1079.12. Section 1079.10 applies to a transaction only if it may reasonably be considered that

(a) but for this Title, the transaction would directly or indirectly result in a misuse of the provisions of one or more of

- i. this Act,
- ii. the Act respecting the application of the Taxation Act (chapter I-4),
- iii. the Regulation respecting the Taxation Act (chapter I-3, r. 1),
- iv. a tax agreement, or

v. any other legislative or regulatory provision that is relevant for computing the tax or another amount payable by a person or refundable to a person under this Act, or for determining an amount that is to be taken into account in that computation; or

(b) the transaction would directly or indirectly result in an abuse having regard to the provisions referred to in paragraph a, other than this Title, read as a whole.

History: 1990, c. 59, s. 351; 2006, c. 13, s. 204; 2011, c. 6, s. 213.

Corresponding Federal Provision: 245(4).

Determination of tax consequences.

1079.13. Without restricting the generality of section 1079.10 and despite any other legislative or regulatory provision, in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that, but for this Title, would result, directly or indirectly, from an avoidance transaction,

- (a) any deduction, exemption or exclusion in computing income, taxable income, taxable income earned in Canada or tax payable or any part thereof may be allowed or disallowed in whole or in part;
- (b) any deduction, exemption or exclusion referred to in paragraph a, any income, loss or other amount or part thereof may be allocated to any person;
- (c) the nature of any payment or other amount may be recharacterized;
- (d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

History: 1990, c. 59, s. 351; 2006, c. 13, s. 205.

Corresponding Federal Provision: 245(5).

Penalty for taxpayer.

1079.13.1. If, as a consequence of the application of section 1079.10 in respect of a transaction, the tax consequences to a person are determined as is reasonable in the circumstances in order to deny a tax benefit, the person incurs a penalty equal to 50% of the amount of the tax benefit denied.

Exception.

However, the first paragraph does not apply if the person filed an information return in respect of the transaction, or series of transactions that includes the transaction, in accordance with any of sections 1079.8.5 to 1079.8.6.2, 1079.8.7 and 1079.8.7.1.

History: 2010, c. 25, s. 193; 2019, c. 14, s. 430; 2020, c. 2, s. 47; 2020, c. 16, s. 177.

Penalty for promoter.

1079.13.2. If a person (in this section referred to as the “particular person”) incurs a penalty under section 1079.13.1 in respect of a transaction, the promoter of the transaction, or of the series of transactions that includes the transaction, incurs a penalty equal to 100% of

(a) if the transaction or series of transactions is carried out by the particular person, the aggregate of all amounts each of which is a consideration that the promoter, or a person or partnership related to, or associated with, the promoter, has received or is entitled to receive, directly or indirectly, from any person or partnership in respect of the transaction; or

(b) if the transaction or series of transactions is carried out by a partnership of which the particular person is a member, the amount that is the agreed proportion of the aggregate referred to in subparagraph *a* in respect of the particular person for the partnership’s fiscal period in which the transaction or series of transactions is carried out.

Reassessment by Minister.

If a penalty incurred by a particular person under section 1079.13.1 in relation to a transaction is cancelled in consequence of an objection, contestation or appeal, as the case may be, the Minister shall, despite the expiry of the time limits provided for in section 1010, make a reassessment and redetermine the interest and penalties payable by the promoter of the transaction or of the series of transactions, under the first paragraph, in order to take the decision or judgment into account.

History: 2010, c. 25, s. 193; 2019, c. 14, s. 431; 2020, c. 12, s. 148.

Particular person member of an interposed partnership.

1079.13.3. For the purposes of subparagraph *b* of the first paragraph of section 1079.13.2, the following rules apply if a particular person is a member, or is deemed because of the application of this section to be a member, of a partnership

(in this section referred to as the “interposed partnership”) at the end of a fiscal period of the interposed partnership (in this section referred to as the “interposed fiscal period”), and the interposed partnership is itself a member of a given partnership at the end of the given partnership’s given fiscal period that ends in the interposed fiscal period:

(a) the particular person is deemed to be a member of the given partnership at the end of the given fiscal period; and

(b) the agreed proportion in respect of the particular person for the given partnership’s given fiscal period is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the particular person for the interposed partnership’s interposed fiscal period by the agreed proportion in respect of the interposed partnership for the given partnership’s given fiscal period.

History: 2010, c. 25, s. 193.

Penalty incurred by a partnership.

1079.13.4. If a partnership incurs a penalty under section 1079.13.2, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2010, c. 25, s. 193; 2010, c. 31, s. 175; 2017, c. 1, s. 362.

Request for adjustments.

1079.14. Where a notice of assessment, reassessment or additional assessment involving the application of section 1079.10 with respect to a transaction has been sent to a person, or a notice of determination pursuant to section 1006.1 has been sent to a person with respect to a transaction, any person other than a person to whom any such notice has been sent to shall be entitled, within 180 days after the day of sending of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying section 1079.10 or make a determination applying section 1006.1 with respect to that transaction.

Extension.

However, where the person making the request was physically unable to act or to give a mandate to act in his name within the period fixed and not more than one year has passed since the date of sending of the notice, he may apply to a judge of the Court of Québec to extend the period for a period that may not go beyond the fifteenth day following the date of the judgment granting such extension.

History: 1990, c. 59, s. 351; 2004, c. 4, s. 15.

Corresponding Federal Provision: 166.1(1), 166.2(1) and 245(6).

Restriction.

1079.15. Notwithstanding any other provision of this Act, the tax consequences to any person, following the application of this Title, shall only be determined through a notice of assessment, reassessment or additional assessment or through a notice of determination pursuant to section 1006.1 involving the application of this Title.

History: 1990, c. 59, s. 351.

Corresponding Federal Provision: 245(7).

Time limit for reassessment or additional assessment.

1079.15.1. If section 1079.10 applies to a person in relation to a transaction and the person did not file an information return in accordance with any of sections 1079.8.5 to 1079.8.6.2 and 1079.8.7, in respect of the transaction or series of transactions that includes the transaction, the Minister may, despite the expiry of the time limit provided for, in respect of the person, in paragraph *a* or *a.0.1* of subsection 2 of section 1010, determine the tax consequences to the person, the interest and the penalties, under this Act, and make a reassessment or an additional assessment,

(*a*) on or before the day that is six years after the day referred to, for the taxation year concerned, in paragraph *a* of subsection 2 of section 1010 or, if the transaction or series of transactions must be disclosed as required by any of sections 1079.8.5 to 1079.8.6.2, the day, if it is later, on which the information return containing the information required by section 1079.8.9 is sent to the Minister in respect of the transaction or series of transactions; or

(*b*) on or before the day that is seven years after the day determined in subparagraph *a* if, at the end of the taxation year concerned, the person is a mutual fund trust or a corporation other than a Canadian-controlled private corporation.

Restriction.

However, the Minister may make a reassessment or an additional assessment beyond the period that, in respect of a person, is referred to in paragraph *a* or *a.0.1* of subsection 2 of section 1010, because of the application of section 1079.10 to the person in relation to a transaction, only to the extent that the reassessment or additional assessment may reasonably be considered to relate to the transaction.

History: 2010, c. 25, s. 194; 2017, c. 1, s. 363; 2020, c. 16, s. 178.

Additional time limit for reassessment or additional assessment.

1079.15.1.1. Despite section 1079.15.1, if section 1079.10 applies to a person in relation to a transaction and the person was not required to file an information return referred to in any of sections 1079.8.5 to 1079.8.6.2, in respect of the transaction or series of transactions that includes the

transaction, did not file an information return referred to in section 1079.8.7, in respect of the transaction or series of transactions, and filed an information return in accordance with section 1079.8.7.1, in respect of the transaction or series of transactions, the Minister may, despite the expiry of the time limit provided for, in respect of the person, in paragraph *a* or *a.0.1* of subsection 2 of section 1010, determine the tax consequences to the person, the interest and the penalties, under this Act, and make a reassessment or an additional assessment on or before the day determined under section 1079.15.1, in respect of the person and in relation to the transaction or series of transactions, or the day, if it is later, that is one year after the day on which the information return referred to in section 1079.8.7.1 is sent by the person to the Minister in relation to the transaction or series of transactions.

Restriction.

However, the Minister may make a reassessment or an additional assessment beyond the period that, in respect of a person, is referred to in paragraph *a* or *a.0.1* of subsection 2 of section 1010, because of the application of section 1079.10 to the person in relation to a transaction, only to the extent that the reassessment or additional assessment may reasonably be considered to relate to the transaction.

History: 2020, c. 2, s. 48; 2020, c. 16, s. 179.

Suspension of prescription following notification of a formal demand.

1079.15.2. Where section 1079.10 applies to a taxpayer in relation to a transaction and where a formal demand relating to an amount that may be owed by the taxpayer under this Act, taking into account the application of section 1079.10, for a taxation year has been notified in accordance with the third paragraph of section 39 of the Tax Administration Act (chapter A-6.002) to a person regarding the filing of information, additional information or documents, the time limit described in paragraph *a* or *a.0.1* of subsection 2 of section 1010 or in section 1079.15.1, as the case may be, for determining the tax consequences to the taxpayer, the interest and the penalties and for making a reassessment or an additional assessment, in respect of the taxation year concerned, is suspended for the period that begins on the day the application for authorization provided for in the third paragraph of that section 39 is filed and ends on the day on which that application is finally settled and on which, where the validity of the formal demand is confirmed, the information, additional information or documents, as the case may be, are filed in accordance with that section 39.

Restriction.

However, the Minister may, after applying the first paragraph, make a reassessment or an additional assessment beyond the period that, in respect of the taxpayer, is referred to in paragraph *a* or *a.0.1* of subsection 2 of section 1010, because of the application of section 1079.10 to the taxpayer

in relation to a transaction, only to the extent that the reassessment or additional assessment may reasonably be considered to relate to the transaction.

History: 2019, c. 14, s. 432.

Duties of the Minister.

1079.16. Upon receipt of a request by a person under section 1079.14, the Minister shall, with all due dispatch, consider the request and, notwithstanding section 1010, assess, reassess or make an additional assessment or determination pursuant to section 1006.1 with respect to that person.

Restriction.

However, an assessment, reassessment, additional assessment or determination may be made under this section only to the extent that it may reasonably be regarded as relating to the transaction referred to in section 1079.14.

History: 1990, c. 59, s. 351.

Corresponding Federal Provision: 245(8).

1080. *(Repealed).*

History: 1972, c. 23, s. 804; 1990, c. 59, s. 352.

1080.1. *(Repealed).*

History: 1987, c. 67, s. 193; 1990, c. 59, s. 352.

1081. *(Repealed).*

History: 1972, c. 23, s. 805; 1973, c. 17, s. 121; 1987, c. 21, s. 81; 1990, c. 59, s. 352.

1082. *(Repealed).*

History: 1986, c. 15, s. 192.

TITLE I.0.1

SHAM TRANSACTION

Definitions.

1082.0.1. For the purposes of sections 1082.0.1 to 1082.0.5,

“*adviser*”;

“*adviser*” has the meaning assigned by section 1079.8.1;

“*promoter*”;

“*promoter*” has the meaning assigned by section 1079.9;

“*transaction*”.

“*transaction*” has the meaning assigned by section 1079.8.1.

Related or associated persons or partnerships.

For the purposes of this Title, the rules set out in section 1079.9.1 apply for the purpose of determining

whether, at a particular time, a person or a partnership is associated with, or related to, another person or partnership.

History: 2020, c. 16, s. 180.

Penalty — sham transaction.

1082.0.2. Where the Minister determines or redetermines the tax payable under this Act by a person for a taxation year for which tax consequences under this Act result from a sham transaction and makes an assessment, a reassessment or an additional assessment in respect of the taxation year concerned, the person incurs a penalty equal to the greater of \$25,000 and 50% of the excess amount that would be determined for the year, in respect of the person, under the first paragraph of section 1049 if a reference, in that first paragraph, to a false statement or an omission were replaced by a reference to a sham transaction.

History: 2020, c. 16, s. 180.

Penalty — promoter or adviser.

1082.0.3. Where the Minister determines or redetermines the tax payable under this Act by a particular person for a taxation year for which tax consequences under this Act result from a sham transaction and makes an assessment, a reassessment or an additional assessment in respect of the taxation year concerned, the promoter of the transaction, or the adviser in respect of the transaction, incurs a penalty equal to 100% of

(a) if the transaction is carried out by the particular person, the aggregate of all amounts each of which is a consideration that the promoter or adviser, or a person or partnership related to or associated with the promoter or adviser, has received or is entitled to receive, directly or indirectly, from any person or partnership in respect of the transaction; or

(b) if the transaction is carried out by a partnership of which the particular person is a member, the amount that is the agreed proportion of the aggregate referred to in subparagraph *a* in respect of the particular person for the partnership’s fiscal period in which the transaction is carried out.

Reassessment by Minister.

Where an assessment, a reassessment or an additional assessment referred to in the first paragraph is cancelled in consequence of an objection, an appeal or a summary appeal, as the case may be, the Minister shall, despite the expiry of the time limits provided for in section 1010, make a reassessment and redetermine the interest and penalties payable by the promoter or the adviser of the transaction, under the first paragraph, in order to take the decision or judgment into account.

Particular person member of an interposed partnership.

Section 1079.13.3 applies, with the necessary modifications, to the determination of a penalty incurred under this section in respect of a sham transaction.

Penalty incurred by a partnership.

Where a partnership incurs a penalty under this section, sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1 apply, with the necessary modifications, in respect of the penalty as if the partnership were a corporation.

History: 2020, c. 16, s. 180.

Time limit for reassessment or additional assessment.

1082.0.4. The Minister may, despite the expiry of the time limit provided for in paragraph *a* or *a.0.1* of subsection 2 of section 1010, in respect of a person described in the second paragraph, redetermine the tax, interest and penalties payable under this Act, and make a reassessment or an additional assessment, in respect of that person, for a taxation year for which tax consequences under this Act result from a sham transaction,

(*a*) on or before the day that is six years after the day referred to, for the taxation year concerned, in paragraph *a* of subsection 2 of section 1010; or

(*b*) on or before the day that is seven years after the day determined in subparagraph *a* if, at the end of the taxation year concerned, the person is a mutual fund trust or a corporation other than a Canadian-controlled private corporation.

Person who is a party to the sham transaction.

The person to whom the first paragraph refers is

(*a*) a person who is a party to the sham transaction;

(*b*) a person who is a member of a partnership that is a party to the sham transaction, at the end of the partnership's fiscal period that ends in the taxation year;

(*c*) a corporation that is associated with the person described in subparagraph *a* or with the partnership described in subparagraph *b*, at the time the sham transaction is carried out;

(*d*) a corporation that is associated with a person who is a member of a partnership that is a party to the sham transaction, at the time the transaction is carried out;

(*e*) a person who is related to the person described in subparagraph *a* or to the partnership described in subparagraph *b*, at the time the sham transaction is carried out; or

(*f*) a person who is related to a person who is a member of a partnership that is a party to the sham transaction, at the time the transaction is carried out.

Restriction.

However, the Minister may, in respect of a taxation year for which tax consequences under this Act result from a sham transaction, make a reassessment or an additional assessment, under the first paragraph, only to the extent that the reassessment or additional assessment may reasonably be considered to relate to the transaction.

History: 2020, c. 16, s. 180.

Suspension of prescription following notification of a formal demand.

1082.0.5. Where tax consequences under this Act result, for a taxation year of a taxpayer, from a sham transaction and a formal demand relating to an amount that may be owed by a taxpayer under this Act, in respect of the transaction, has been notified in accordance with the third paragraph of section 39 of the Tax Administration Act (chapter A-6.002) to a person regarding the filing of information, additional information or documents, the time limit described in paragraph *a* or *a.0.1* of subsection 2 of section 1010 or in section 1082.0.4, as the case may be, for determining or redetermining the tax, interest and penalties and for making a reassessment or an additional assessment, in respect of the taxation year concerned, in relation to the tax consequences to the taxpayer that are attributable to the sham transaction, is suspended for the period that begins on the day the application for authorization provided for in the third paragraph of that section 39 is filed and ends on the day on which that application is finally settled and on which, where the validity of the formal demand is confirmed, the information, additional information or documents, as the case may be, are filed in accordance with that section 39.

Restriction.

However, the Minister may, after applying the first paragraph, make a reassessment or an additional assessment beyond the period that, in respect of a taxpayer, is referred to in paragraph *a* or *a.0.1* of subsection 2 of section 1010 or in section 1082.0.4, because of the sham transaction in relation to the taxpayer, only to the extent that the reassessment or additional assessment may reasonably be considered to relate to the transaction.

History: 2020, c. 16, s. 180.

**TITLE I.1
BENEFIT CONFERRED ON A TAXPAYER****Benefit conferred on a taxpayer.**

1082.1. Where, at any time, a person confers a benefit, either directly or indirectly, by any means whatever, on a taxpayer, the amount of the benefit shall be included in computing the taxpayer's income or taxable income earned

in Canada under this Part or Part II, respectively, for the taxation year that includes that time, to the extent that it is not otherwise included in computing the taxpayer's income or taxable income earned in Canada under this Part or Part II, respectively, and would be included in computing his income if the amount of the benefit were a payment made directly by the person to the taxpayer and if the taxpayer were resident in Canada.

History: 1990, c. 59, s. 353.

Corresponding Federal Provision: 246(1)(a).

Arm's-length transaction.

1082.2. Where it is established that a transaction was entered into by persons dealing at arm's length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction is deemed, for the purposes of section 1082.1, to have conferred a benefit on the party with whom he was so dealing.

History: 1990, c. 59, s. 353.

Corresponding Federal Provision: 246(2).

TITLE I.2

TRANSFER PRICING

Definitions:

1082.3. In this Title,

“tax benefit”;

“tax benefit” has the meaning assigned by section 1079.9;

“transaction”;

“transaction” includes an arrangement or event;

“transfer pricing capital adjustment”;

“transfer pricing capital adjustment” of a taxpayer for a taxation year means

(a) an amount by which the adjusted cost base to the taxpayer of a capital property (other than a depreciable property) is reduced in the year because of an adjustment made under section 1082.4, or an amount by which the capital cost to the taxpayer of a depreciable property is reduced in the year because of an adjustment made under section 1082.4; or

(b) the product obtained when the proportion that the taxpayer's share of the income or loss of a partnership for a fiscal period that ends in the year is of the income or loss of the partnership for that fiscal period is multiplied by the amount by which the adjusted cost base to the partnership of a capital property (other than a depreciable property) is reduced in the fiscal period because of an adjustment made under section 1082.4 or by the amount by which the capital cost to the partnership of a depreciable property is reduced in the fiscal period because of an adjustment made under section 1082.4;

“transfer pricing income adjustment”.

“transfer pricing income adjustment” of a taxpayer for a taxation year means the amount by which an adjustment made under section 1082.4, other than an adjustment included in determining a transfer pricing capital adjustment of the taxpayer for a taxation year, would result in an increase in the taxpayer's income for the year or a decrease in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under section 1082.4.

Interpretation.

For the purposes of the definition of “transfer pricing capital adjustment” in the first paragraph, where the income and loss of a partnership for a fiscal period are nil, it shall be assumed that the income of the partnership for that fiscal period is equal to \$1,000,000.

History: 2001, c. 7, s. 154; 2003, c. 2, s. 284; 2004, c. 8, s. 183; 2005, c. 1, s. 276; 2006, c. 13, s. 206; 2019, c. 14, s. 433.

Corresponding Federal Provision: 247(1).

Transfer pricing adjustment.

1082.4. The rule set out in the second paragraph applies where a taxpayer or a partnership and a person not resident in Canada with whom the taxpayer or the partnership, or a member of the partnership, does not deal at arm's length, or a partnership of which the person not resident in Canada is a member, are participants in a transaction or a series of transactions and

(a) the terms and conditions made or imposed, in respect of the transaction or series of transactions, between any of the participants in the transaction or series of transactions differ from those that would have been made between persons dealing at arm's length; or

(b) the transaction or series of transactions would not have been entered into between persons dealing at arm's length and can reasonably be considered not to have been entered into primarily for *bona fide* purposes other than to obtain a tax benefit.

Rule applicable.

Where the conditions set out in the first paragraph are met, any amounts that, but for this Title and sections 1079.9 to 1079.16, would be determined for the purposes of this Act in respect of the taxpayer or the partnership for a taxation year or fiscal period, as the case may be, shall be adjusted to the quantum or nature of the amounts that would have been determined if,

(a) where only subparagraph *a* of the first paragraph applies, the terms and conditions made or imposed, in respect of the transaction or series of transactions, between the participants in the transaction or series of transactions had been those that

would have been made between persons dealing at arm's length; or

(b) where subparagraph *b* of the first paragraph applies, the transaction or series of transactions entered into between the participants had been the transaction or series of transactions that would have been entered into between persons dealing at arm's length, under terms and conditions that would have been made between persons dealing at arm's length.

History: 2001, c. 7, s. 154.

Corresponding Federal Provision: 247(2).

1082.5. *(Repealed).*

History: 2001, c. 7, s. 154; 2004, c. 8, s. 184.

1082.6. *(Repealed).*

History: 2001, c. 7, s. 154; 2004, c. 8, s. 184.

1082.7. *(Repealed).*

History: 2001, c. 7, s. 154; 2004, c. 8, s. 184.

1082.8. *(Repealed).*

History: 2001, c. 7, s. 154; 2004, c. 8, s. 184.

Deemed member of partnership.

1082.9. For the purposes of this Title, where a person is a member of a partnership that is a member of another partnership, the following rules apply:

(a) the person is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

History: 2001, c. 7, s. 154.

Corresponding Federal Provision: 247(6).

Exclusion for loans to certain controlled foreign affiliates.

1082.10. Where, in a taxation year of a corporation resident in Canada, a person not resident in Canada owes an amount to the corporation, the person not resident in Canada is a controlled foreign affiliate of the corporation for the purposes of Division VII of Chapter II of Title III of Book III throughout the period in the year during which the amount is owing and it is established that the amount owing is an amount owing described in paragraph *a* or *b* of section 127.13, section 1082.4 does not apply to adjust the amount of interest paid, payable or accruing in the year on the amount owing.

History: 2001, c. 7, s. 154; 2001, c. 53, s. 239.

Corresponding Federal Provision: 247(7).

Exclusion — certain guarantees.

1082.10.1. Section 1082.4 does not apply to adjust an amount of consideration paid, payable or accruing to a corporation resident in Canada (in this section referred to as the "parent") in a taxation year of the parent for the provision of a guarantee to a person or a partnership (in this section referred to as the "lender") for the repayment, in whole or in part, of a particular amount owing to the lender by a person not resident in Canada, if

(a) the person not resident in Canada is a controlled foreign affiliate of the parent for the purposes of Division VII of Chapter II of Title III of Book III throughout the period in the year during which the particular amount is owing; and

(b) it is established that the particular amount would be an amount owing described in paragraph *a* or *b* of section 127.13 if it were owed to the parent.

History: 2015, c. 24, s. 151.

Corresponding Federal Provision: 247(7.1).

Provisions not applicable.

1082.11. Sections 420, 421, 422 and 422.1 shall not apply to determine an amount under this Act where, but for those sections, the amount would be adjusted by reason of section 1082.4 and if the amount is so adjusted.

History: 2001, c. 7, s. 154.

Corresponding Federal Provision: 247(8).

1082.12. *(Repealed).*

History: 2001, c. 7, s. 154; 2004, c. 8, s. 184.

No adjustment unless appropriate.

1082.13. An adjustment, other than an adjustment that results in or increases a transfer pricing capital adjustment or a transfer pricing income adjustment of a taxpayer for a taxation year, shall not be made under section 1082.4 unless, in the opinion of the Minister, the circumstances are such that it would be appropriate that the adjustment be made.

History: 2001, c. 7, s. 154.

Corresponding Federal Provision: 247(10).

TITLE II

(Repealed).

1083. *(Repealed).*

History: 1972, c. 23, s. 807; 1987, c. 67, s. 194; 1990, c. 59, s. 354.

1084. *(Repealed).*

History: 1972, c. 23, s. 808; 1973, c. 17, s. 122; 1987, c. 67, s. 195; 1990, c. 59, s. 354.

1085. *(Repealed).*

History: 1972, c. 23, s. 809; 1987, c. 67, s. 196; 1990, c. 59, s. 354.

BOOK XII
REGULATIONS
Government powers regarding regulations.

1086. The Government may make regulations to:

(a) prescribe the proof required for establishing facts pertinent to assessments;

(b) facilitate assessment of tax when the deductions or exemptions of a taxpayer have varied in the taxation year;

(c) provide for the retention by way of deduction or compensation of the amount of a taxpayer's income tax or other indebtedness under a fiscal law out of any amount that may be payable by the State in respect of salary or wages;

(d) define the classes of persons who may be deemed dependents for the purposes of this Part;

(e) establish classes of property for the purposes of section 130;

(e.1) *(subparagraph repealed)*;

(e.2) require any person included in one of the classes of persons it determines to file any return it may prescribe relating to any information necessary for the establishment of an assessment provided for in this Act and to send, where applicable, a copy of the return or of a part thereof to any person to whom the return or part thereof relates and to whom it indicates in the regulation;

(e.3) require any person included in one of the classes of persons it determines to make information available to the public for the purpose of filing any return it may prescribe relating to any information necessary for the establishment of an assessment provided for in this Act;

(e.4) allow a person who is required to file a return in accordance with the regulations made under subparagraph e.2 to send by electronic means, if the person meets the conditions determined by the Minister, a copy of such a return prescribed by the Government or of a part thereof to any person to whom the return or part thereof relates and to whom it indicates in the regulation; and

(f) generally prescribe the measures required for the application of this Act.

Coming into force.

The regulations made under this section and all those made under the other provisions of this Act shall come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein; they may also,

once published and if they so provide, apply to a period prior to their publication, but not prior to the taxation year 1972.

History: 1972, c. 23, s. 810; 1972, c. 26, s. 77; 1974, c. 18, s. 39; 1988, c. 18, s. 118; 1990, c. 59, s. 355; 1995, c. 63, s. 227; 1998, c. 16, s. 242; 2010, c. 5, s. 182; I.N. 2016-12-01; 2019, c. 14, s. 434.

Corresponding Federal Provision: 221(1) and (2) and 221.01.

PART I.1
(Repealed).
BOOK I
(Repealed).
1086.1. *(Repealed).*

History: 1993, c. 64, s. 183; 1995, c. 1, s. 178; 1997, c. 14, s. 290; 1997, c. 85, s. 297.

BOOK II
(Repealed).
1086.2. *(Repealed).*

History: 1993, c. 64, s. 183; 1997, c. 85, s. 297.

1086.3. *(Repealed).*

History: 1993, c. 64, s. 183; 1995, c. 1, s. 179; 1995, c. 63, s. 228; 1997, c. 85, s. 297.

BOOK III
(Repealed).
1086.4. *(Repealed).*

History: 1993, c. 64, s. 183; 1995, c. 49, s. 236; 1995, c. 63, s. 261; 1997, c. 14, s. 260; 1997, c. 85, s. 297.

PART I.2
(Repealed).
BOOK I
(Repealed).
1086.5. *(Repealed).*

History: 1995, c. 1, s. 180; 1997, c. 14, s. 290; 2001, c. 51, s. 203; 2005, c. 1, s. 277.

BOOK II
(Repealed).
1086.6. *(Repealed).*

History: 1995, c. 1, s. 180; 2000, c. 39, s. 218; 2004, c. 21, s. 447; 2005, c. 1, s. 277.

BOOK III
(Repealed).

1086.7. (Repealed).

History: 1995, c. 1, s. 180; 1995, c. 49, s. 236; 1995, c. 63, s. 261; 2005, c. 1, s. 277.

1086.8. (Repealed).

History: 1995, c. 1, s. 180; 1997, c. 31, s. 130; 2005, c. 1, s. 277.

PART I.3

**TAX IN RESPECT OF ADVANCE PAYMENTS OF
THE CREDIT FOR HOME SUPPORT FOR SENIORS**

Definitions:

1086.9. In this Part,

“*balance-due day*”;

“balance-due day” has the meaning assigned by section 1;

“*eligible spouse*”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“*individual*”;

“individual” has the meaning assigned by section 1;

“*taxation year*”.

“taxation year” has the meaning that would be assigned by Part I if it were read without reference to section 779.

History: 2000, c. 39, s. 219; 2001, c. 53, s. 240; 2006, c. 36, s. 213; 2007, c. 12, s. 304; 2009, c. 15, s. 364.

Liability for tax.

1086.10. An individual shall pay, for a taxation year, a tax equal to the aggregate of all amounts each of which is an amount paid in advance by the Minister to the individual for that year under section 1029.8.61.6.

Solidary liability.

If applicable, the individual and the individual’s eligible spouse for the year are solidarily liable for the payment of the tax payable under the first paragraph and, in that respect, a payment by the individual affects the liability of the eligible spouse only to the extent that the payment operates to reduce the individual’s liability to an amount less than the amount in respect of which the eligible spouse is solidarily liable under this paragraph.

History: 2000, c. 39, s. 219; 2006, c. 13, s. 207; 2006, c. 36, s. 214; 2009, c. 15, s. 365.

Payment of tax.

1086.11. An individual shall pay to the Minister, for a taxation year, on or before the individual’s balance-due day

for the year, the individual’s tax under this Part as estimated for the year under section 1004.

History: 2000, c. 39, s. 219.

Provisions applicable.

1086.12. Unless otherwise provided in this Part, sections 1000 to 1014, 1035 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2000, c. 39, s. 219; 2017, c. 1, s. 364.

PART I.3.1

**TAX RELATING TO ADVANCE PAYMENTS OF
THE CREDITS TO INCREASE THE INCENTIVE TO
WORK**

Definitions:

1086.12.1. In this Part,

“*balance-due day*”;

“balance-due day” has the meaning assigned by section 1;

“*eligible spouse*”;

“eligible spouse” of an individual for a taxation year means the person who is the individual’s eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4 and who, at the end of 31 December of the year or, if the person died in the year, immediately before the person’s death, was resident in Québec and had not been confined to a prison or similar institution during the year for one or more periods totalling more than 183 days;

“*individual*”;

“individual” has the meaning assigned by section 1;

“*taxation year*”.

“taxation year” has the meaning that would be assigned by Part I if it were read without reference to section 779.

History: 2005, c. 1, s. 278; 2007, c. 12, s. 304; 2009, c. 15, s. 367; 2015, c. 21, s. 499; 2017, c. 1, s. 365.

Tax liability.

1086.12.2. An individual shall pay, for a taxation year, a tax equal to the aggregate of all amounts each of which is an amount paid in advance by the Minister to the individual for that year under any of sections 1029.8.116.9, 1029.8.116.9.0.1 and 1029.8.116.9.1.

Solidary liability.

Where applicable, the individual and the individual’s eligible spouse for the year are solidarily liable for the payment of the tax payable under the first paragraph and, in that respect, a payment by the individual affects the liability of the eligible spouse only to the extent that the payment operates to reduce the individual’s liability to an amount less than the amount in respect of which the eligible spouse is solidarily liable under this paragraph.

History: 2005, c. 1, s. 278; 2009, c. 15, s. 368; 2017, c. 1, s. 366.

Payment of tax.

1086.12.3. An individual shall pay to the Minister, for a taxation year, on or before the individual's balance-due day for the year, the individual's tax under this Part as estimated for the year under section 1004.

History: 2005, c. 1, s. 278.

Provisions applicable.

1086.12.4. Except where inconsistent with this Part, sections 1000 to 1014, 1035 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2005, c. 1, s. 278.

PART I.3.2
TAX IN RESPECT OF ADVANCE PAYMENTS OF
THE CREDIT FOR CHILD CARE EXPENSES

Definitions:

1086.12.5. In this Part,

“balance-due day”;

“balance-due day” has the meaning assigned by section 1;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“individual”;

“individual” has the meaning assigned by section 1;

“taxation year”.

“taxation year” has the meaning that would be assigned by Part I if it were read without reference to section 779.

History: 2005, c. 1, s. 278; 2007, c. 12, s. 304.

Tax liability.

1086.12.6. An individual shall pay, for a taxation year, a tax equal to the aggregate of all amounts each of which is an amount paid in advance by the Minister to the individual for that year under section 1029.8.80.2.

Solidary liability.

Where applicable, the individual and the individual's eligible spouse for the year are solidarily liable for the payment of the tax payable under the first paragraph and, in that respect, a payment by the individual affects the liability of the eligible spouse only to the extent that the payment operates to reduce the individual's liability to an amount less than the amount in respect of which the eligible spouse is solidarily liable under this paragraph.

History: 2005, c. 1, s. 278.

Payment of tax.

1086.12.7. An individual shall pay to the Minister, for a taxation year, on or before the individual's balance-due day for the year, the individual's tax under this Part as estimated for the year under section 1004.

History: 2005, c. 1, s. 278.

Provisions applicable.

1086.12.8. Except where inconsistent with this Part, sections 1000 to 1014, 1035 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2005, c. 1, s. 278.

PART I.3.3
TAX IN RESPECT OF ADVANCE PAYMENTS OF
THE CREDIT FOR THE TREATMENT OF
INFERTILITY

Definitions:

1086.12.9. In this Part,

“balance-due day”;

“balance-due day” has the meaning assigned by section 1;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“individual”;

“individual” has the meaning assigned by section 1;

“taxation year”.

“taxation year” has the meaning that would be assigned by Part I if it were read without reference to section 779.

History: 2017, c. 1, s. 367.

Tax liability.

1086.12.10. An individual shall pay, for a taxation year, a tax equal to the aggregate of all amounts each of which is an amount paid in advance by the Minister to the individual for that year under section 1029.8.66.5.3.

Solidary liability.

Where applicable, the individual and the individual's eligible spouse for the year are solidarily liable for the payment of the tax payable under the first paragraph and, in that respect, a payment by the individual affects the liability of the eligible spouse only to the extent that the payment operates to reduce the individual's liability to an amount less than the amount in respect of which the eligible spouse is solidarily liable under this paragraph.

History: 2017, c. 1, s. 367.

Payment of tax.

1086.12.11. An individual shall pay to the Minister, for a taxation year, on or before the individual's balance-due day for the year, the individual's tax under this Part as estimated for the year in accordance with section 1004.

History: 2017, c. 1, s. 367.

Provisions applicable.

1086.12.12. Unless otherwise provided in this Part, sections 1000 to 1014, 1035 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2017, c. 1, s. 367.

PART I.3.4**TAX IN RESPECT OF ADVANCE PAYMENTS OF THE CREDIT FOR THE RESTORATION OF A SECONDARY RESIDENCE****Definitions :**

1086.12.13. In this Part,

“balance-due day”;

“balance-due day” has the meaning assigned by section 1;

“eligible spouse”;

“eligible spouse” of an individual for a taxation year means the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

“individual”;

“individual” has the meaning assigned by section 1;

“taxation year”.

“taxation year” has the meaning that would be assigned by Part I if it were read without reference to section 779.

History: 2019, c. 14, s. 435.

Liability for tax.

1086.12.14. An individual shall pay, for a taxation year, a tax equal to the aggregate of all amounts each of which is an amount paid in advance by the Minister to the individual for that year under section 1029.8.184.

Solidary liability.

Where applicable, the individual and the individual's eligible spouse for the year are solidarily liable for the payment of the tax payable under the first paragraph and, in that respect, a payment by the individual affects the liability of the eligible spouse only to the extent that the payment operates to reduce the individual's liability to an amount less than the amount in respect of which the eligible spouse is solidarily liable under this paragraph.

History: 2019, c. 14, s. 435.

Payment of tax.

1086.12.15. An individual shall pay to the Minister, for a taxation year, on or before the individual's balance-due day for the year, the individual's tax under this Part as estimated for the year in accordance with section 1004.

History: 2019, c. 14, s. 435.

Provisions applicable.

1086.12.16. Unless otherwise provided in this Part, sections 1000 to 1014, 1035 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2019, c. 14, s. 435.

PART I.4**TAX IN RESPECT OF THE ACQUISITION OF REPLACEMENT SHARES ON THE REDEMPTION OF SHARES IN ORDER TO PARTICIPATE IN THE HOME BUYERS' PLAN****BOOK I****DEFINITIONS****Definitions:**

1086.13. In this Part, unless the context indicates a different meaning,

“completion date”;

“completion date” has the meaning assigned by section 776.1.5.0.1;

“eligible amount”;

“eligible amount” has the meaning assigned by section 776.1.5.0.1;

“individual”;

“individual” has the meaning assigned by section 1;

“original share”;

“original share” has the meaning assigned by section 776.1.5.0.1;

“participation period”;

“participation period” has the meaning assigned by section 776.1.5.0.1;

“replacement share”;

“replacement share” has the meaning assigned by section 776.1.5.0.1;

“taxation year”.

“taxation year” has the meaning assigned by Part I.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 297; 2007, c. 12, s. 304.

BOOK II**LIABILITY FOR AND AMOUNT OF TAX****Tax liability.**

1086.14. Where in a particular taxation year or within the first 60 days after the end of the year that is included in a

participation period of the individual, an individual did not acquire replacement shares for an amount at least equal to the amount determined under section 776.1.5.0.2 for the year in respect of the individual, the individual shall pay, except in the case provided for in section 1086.18, tax equal to the amount determined under section 1086.15 for the year in respect of the individual.

History: 2001, c. 53, s. 241.

Amount of the tax.

1086.15. The amount of tax to which section 1086.14 refers is equal to the amount determined by the formula

$$\{[(A - B) / (15 - C)] - D\} \times 15\%.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. an amount equal to zero where

(1) the individual died or ceased to be resident in Canada in the particular taxation year referred to in section 1086.14, or

(2) the completion date in respect of an eligible amount of the individual is in the particular taxation year referred to in section 1086.14, and

ii. in any other case, the aggregate of all eligible amounts of the individual received by the individual in preceding taxation years that are included in the particular participation period referred to in section 1086.14;

(b) B is the aggregate of all amounts each of which is

i. an amount paid by the individual on the acquisition of replacement shares in a taxation year preceding the particular taxation year referred to in section 1086.14 or within 60 days after the end of that preceding year that is included in the particular participation period referred to in section 1086.14, or

ii. 100/15 of an amount that the individual is required to pay under section 1086.14 for a taxation year that precedes the particular taxation year referred to in section 1086.14 and that is included in the particular participation period referred to in section 1086.14 in respect of replacement shares that have not been acquired by the individual;

(c) C is the lesser of 14 and the number of taxation years of the individual that end in the period that begins on 1 January of the first calendar year beginning after the completion date in respect of an eligible amount of the individual and that ends at the beginning of the particular taxation year referred to in section 1086.14; and

(d) D is the aggregate of all amounts paid by the individual on the acquisition of replacement shares in the particular taxation year referred to in section 1086.14 or within the first 60 days after the end of that year that is included in the particular participation period referred to in section 1086.14.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 298; 2011, c. 1, s. 101.

Where an individual ceases to be resident in Canada.

1086.16. Where at a particular time in a taxation year an individual ceases to be resident in Canada, and the individual has not acquired replacement shares, for the period in the year during which the individual was resident in Canada, for an amount at least equal to the amount determined under section 776.1.5.0.3 for the year in respect of the individual, the individual shall pay, except in the case provided for in section 1086.18, tax equal to 15% of the amount by which the amount paid for that period by the individual under section 776.1.5.0.3 exceeds the amount determined under that section 776.1.5.0.3 for that period in respect of the individual.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 299.

Where an individual dies.

1086.17. Except in the case where section 776.1.5.0.5 applies, where an individual dies at a particular time in a taxation year, and replacement shares were not acquired, in the year, for an amount at least equal to the amount determined under section 776.1.5.0.4 for the year in respect of the individual, there shall be paid, except in the case provided for in section 1086.18, tax equal to 15% of the amount by which the amount paid in the year by the individual under section 776.1.5.0.4 exceeds the amount determined under that section 776.1.5.0.4 for the year in respect of the individual.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 300.

Increased rate.

1086.17.1. For the purposes of sections 1086.14 to 1086.17, the amount of tax payable by an individual for a taxation year under any of sections 1086.15 to 1086.17, in respect of replacement shares that were not acquired by that individual, is to be determined, if any of the replacement shares that were not acquired relates to an original share described in paragraph *b* of section 776.1.1 and acquired by the individual in a period specified in the second paragraph of section 776.1.1.1 or 776.1.1.2, as if,

(a) in the case of tax computed under section 1086.15, the amount of that tax were equal to the aggregate of

i. the amount that would be determined by the formula in the first paragraph of section 1086.15 if

(1) A, described in the second paragraph of section 1086.15, represented, in the cases where subparagraph *i* of subparagraph *a* of that second paragraph did not apply, only

the portion of the aggregate of the eligible amounts described in subparagraph ii of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is a share other than such an original share,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 1086.15 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to shares other than such original shares, and

(3) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 1086.15 were the replacement shares that may reasonably be considered to relate to shares other than such original shares,

ii. the amount that would be determined by the formula in the first paragraph of section 1086.15 if

(1) A, described in the second paragraph of section 1086.15, represented, in the cases where subparagraph i of subparagraph *a* of that second paragraph does not apply, only the portion of the aggregate of the eligible amounts described in subparagraph ii of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 1086.15 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2.1) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 1086.15 were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2.2) the fraction “100/15” provided for in subparagraph ii of subparagraph *b* of the second paragraph of section 1086.15 were replaced by a percentage of 400%, and

(3) the percentage of 15% were replaced by a percentage of 25%; and

iii. the amount that would be determined by the formula in the first paragraph of section 1086.15 if

(1) A, described in the second paragraph of section 1086.15, represented, in the cases where subparagraph i of subparagraph *a* of that second paragraph does not apply, only the portion of the aggregate of the eligible amounts described in subparagraph ii of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 1086.15 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(3) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 1086.15 were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(4) the fraction “100/15” provided for in subparagraph ii of subparagraph *b* of the second paragraph of section 1086.15 were replaced by a percentage of 500%, and

(5) the percentage of 15% were replaced by a percentage of 20%; and

(b) in the case of tax computed under section 1086.16 or 1086.17, the percentage of 15% provided for in that section were replaced

i. by a percentage of 25% in respect of the portion of the excess amount referred to in section 1086.16 or 1086.17, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.1, or

ii. by a percentage of 20% in respect of the portion of the excess amount referred to in section 1086.16 or 1086.17, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2010, c. 5, s. 183; 2011, c. 1, s. 102; 2017, c. 1, s. 368.

Exception.

1086.18. Sections 1086.14, 1086.16 and 1086.17 do not apply in respect of an individual for a particular taxation year other than a taxation year described in the second paragraph if, not later than 60 days after the end of the particular year, the individual may make a request for the redemption of

original shares issued to the individual, otherwise than under Division II of Chapter III of Title III of Book V of Part I.

Interpretation.

The taxation year to which the first paragraph refers is a taxation year for which the individual may deduct an amount from the individual's tax otherwise payable under section 776.1.1 or section 776.1.2 in relation to an amount paid in a preceding taxation year of the individual, or within 60 days after the end of that preceding taxation year, in which the individual had to acquire replacement shares for an amount at least equal to the amount determined under section 776.1.5.0.2 for the preceding year in respect of the individual.

History: 2001, c. 53, s. 241; 2011, c. 1, s. 103.

BOOK III MISCELLANEOUS PROVISIONS

Payment of tax.

1086.18.1. An individual shall pay to the Minister, for a taxation year, on or before the individual's balance-due day, within the meaning of section 1, for the year, the individual's tax under this Part for the year.

History: 2003, c. 9, s. 383.

Provisions applicable.

1086.18.2. Except where inconsistent with this Part, sections 1000 to 1014 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2003, c. 9, s. 383.

PART 1.5 TAX IN RESPECT OF THE ACQUISITION OF REPLACEMENT SHARES ON THE REDEMPTION OF SHARES IN ORDER TO PARTICIPATE IN THE LIFELONG LEARNING INCENTIVE PLAN

BOOK I DEFINITIONS

Definitions:

1086.19. In this Part, unless the context indicates a different meaning,

“eligible amount”;
“eligible amount” has the meaning assigned by section 776.1.5.0.6;

“individual”;
“individual” has the meaning assigned by section 1;

“original share”;
“original share” has the meaning assigned by section 776.1.5.0.6;

“participation period”;
“participation period” has the meaning assigned by section 776.1.5.0.6;

“repayment period”;
“repayment period” has the meaning assigned by section 776.1.5.0.6;

“replacement share”;
“replacement share” has the meaning assigned by section 776.1.5.0.6;

“taxation year”.
“taxation year” has the meaning assigned by Part I.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 301; 2007, c. 12, s. 304.

BOOK II LIABILITY FOR AND AMOUNT OF TAX

Tax liability.

1086.20. Where in a particular taxation year or within the first 60 days after the end of the year that is included in a participation period of the individual, an individual did not acquire replacement shares for an amount at least equal to the amount determined under section 776.1.5.0.7 for the year in respect of the individual, the individual shall pay, except in the case provided for in section 1086.24, tax equal to the amount determined under section 1086.21 for the year in respect of the individual.

History: 2001, c. 53, s. 241.

Amount of the tax.

1086.21. The amount of tax to which section 1086.20 refers is equal to the amount determined by the formula

$$\{[(A - B) / (10 - C)] - D\} \times 15\%.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. an amount equal to zero where

(1) the individual died or ceased to be resident in Canada in the particular taxation year referred to in section 1086.20, or

(2) the beginning of the particular taxation year referred to in section 1086.20 is not included in a repayment period of the individual, and

ii. in any other case, the aggregate of all eligible amounts of the individual received by the individual in taxation years preceding the particular taxation year referred to in section 1086.20, other than taxation years included in participation periods of the individual that ended before the particular taxation year referred to in section 1086.20;

(b) B is the aggregate of all amounts each of which is

i. an amount paid by the individual on the acquisition of replacement shares in a taxation year preceding the particular taxation year referred to in section 1086.20 or within 60 days after the end of that preceding year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year referred to in section 1086.20, or

ii. 100/15 of an amount that the individual is required to pay under section 1086.20 for a taxation year preceding the particular taxation year referred to in section 1086.20 in respect of replacement shares that have not been acquired by the individual, other than a taxation year included in a participation period of the individual that ended before the particular taxation year referred to in section 1086.20;

(c) C is the lesser of nine and the number of taxation years of the individual that end in the period that begins at the beginning of the last repayment period of the individual that began at or before the beginning of the particular taxation year and that ends at the beginning of the particular taxation year referred to in section 1086.20; and

(d) D is the aggregate of all amounts paid by the individual on the acquisition of replacement shares in the particular taxation year referred to in section 1086.20 or within the first 60 days after the end of that year, other than a taxation year included in a participation period of the individual that ended before the particular taxation year referred to in section 1086.20.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 302; 2011, c. 1, s. 104.

Where an individual ceases to be resident in Canada.

1086.22. Where at a particular time in a taxation year an individual ceases to be resident in Canada, and the individual has not acquired replacement shares, for the period in the year during which the individual was resident in Canada, for an amount at least equal to the amount determined under section 776.1.5.0.8 for that period in respect of the individual, the individual shall pay, except in the case provided for in section 1086.24, tax equal to 15% of the amount by which the amount paid for that period by the individual under section 776.1.5.0.8 exceeds the amount determined under that section 776.1.5.0.8 for that period in respect of the individual.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 303.

Where an individual dies.

1086.23. Except in the case where section 776.1.5.0.10 applies, where an individual dies at a particular time in a taxation year, and replacement shares were not acquired, in the year, for an amount at least equal to the amount determined under section 776.1.5.0.9 for the year in respect of the individual, there shall be paid, except in the case provided for in section 1086.24, tax equal to 15% of the

amount by which the amount paid in the year by the individual under section 776.1.5.0.9 exceeds the amount determined under that section 776.1.5.0.9 for the year in respect of the individual.

History: 2001, c. 53, s. 241; 2005, c. 38, s. 304.

Increased rate.

1086.23.1. For the purposes of sections 1086.20 to 1086.23, the amount of tax payable by an individual for a taxation year under any of sections 1086.21 to 1086.23, in respect of replacement shares that were not acquired by that individual, is to be determined, if any of the replacement shares that were not acquired relates to an original share described in paragraph *b* of section 776.1.1 and acquired by the individual in a period specified in the second paragraph of section 776.1.1.1 or 776.1.1.2, as if,

(a) in the case of tax computed under section 1086.21, the amount of that tax were equal to the aggregate of

i. the amount that would be determined by the formula in the first paragraph of section 1086.21 if

(1) A, described in the second paragraph of section 1086.21, represented, in the cases where subparagraph *i* of subparagraph *a* of that second paragraph did not apply, only the portion of the aggregate of the eligible amounts described in subparagraph *ii* of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is a share other than such an original share,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph *i* of subparagraph *b* of the second paragraph of section 1086.21 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to shares other than such original shares, and

(3) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph *ii* of subparagraph *b* of the second paragraph of section 1086.21 were the replacement shares that may reasonably be considered to relate to shares other than such original shares;

ii. the amount that would be determined by the formula in the first paragraph of section 1086.21 if

(1) A, described in the second paragraph of section 1086.21, represented, in the cases where subparagraph *i* of subparagraph *a* of that second paragraph does not apply, only the portion of the aggregate of the eligible amounts described in subparagraph *ii* of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 1086.21 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2.1) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 1086.21 were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.1,

(2.2) the fraction “100/15” provided for in subparagraph ii of subparagraph *b* of the second paragraph of section 1086.21 were replaced by a percentage of 400%, and

(3) the percentage of 15% were replaced by a percentage of 25%; and

iii. the amount that would be determined by the formula in the first paragraph of section 1086.21 if

(1) A, described in the second paragraph of section 1086.21, represented, in the cases where subparagraph i of subparagraph *a* of that second paragraph does not apply, only the portion of the aggregate of the eligible amounts described in subparagraph ii of subparagraph *a* of that second paragraph, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(2) the only replacement shares whose acquisition is considered for the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 1086.21 and subparagraph *d* of that second paragraph were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(3) the only replacement shares whose non-acquisition is considered for the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 1086.21 were the replacement shares that may reasonably be considered to relate to such original shares acquired by the individual in the period specified in the second paragraph of section 776.1.1.2,

(4) the fraction “100/15” provided for in subparagraph ii of subparagraph *b* of the second paragraph of section 1086.21 were replaced by a percentage of 500%, and

(5) the percentage of 15% were replaced by a percentage of 20%; and

(*b*) in the case of tax computed under section 1086.22 or 1086.23, the percentage of 15% provided for in that section were replaced

i. by a percentage of 25% in respect of the portion of the excess amount referred to in section 1086.22 or 1086.23, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.1, or

ii. by a percentage of 20% in respect of the portion of the excess amount referred to in section 1086.22 or 1086.23, determined in respect of the individual, that may reasonably be attributed to shares each of which is such an original share acquired by the individual in the period specified in the second paragraph of section 776.1.1.2.

History: 2010, c. 5, s. 184; 2011, c. 1, s. 105; 2017, c. 1, s. 369.

Exception.

1086.24. Sections 1086.20, 1086.22 and 1086.23 do not apply in respect of an individual for a particular taxation year other than a taxation year described in the second paragraph if, not later than 60 days after the end of the particular year, the individual may make a request for the redemption of original shares issued to the individual, otherwise than under Division III of Chapter III of Title III of Book V of Part I.

Interpretation.

The taxation year to which the first paragraph refers is a taxation year for which the individual may deduct an amount from the individual’s tax otherwise payable under section 776.1.1 or section 776.1.2 in relation to an amount paid in a preceding taxation year of the individual, or within 60 days after the end of that preceding taxation year, in which the individual had to acquire replacement shares for an amount at least equal to the amount determined under section 776.1.5.0.7 for the preceding year in respect of the individual.

History: 2001, c. 53, s. 241; 2011, c. 1, s. 106.

BOOK III MISCELLANEOUS PROVISIONS

Payment of tax.

1086.25. An individual shall pay to the Minister, for a taxation year, on or before the individual’s balance-due day, within the meaning of section 1, for the year, the individual’s tax under this Part for the year.

History: 2003, c. 9, s. 384.

Provisions applicable.

1086.26. Except where inconsistent with this Part, sections 1000 to 1014 and 1037 to 1079.16 apply to this Part, with the necessary modifications.

History: 2003, c. 9, s. 384.

PART I.6
TAX IN RESPECT OF SECURITY OPTION
BENEFIT DEFERRAL

Definitions:

1086.27. In this Part,

“filing-due date”;

“filing-due date” has the meaning assigned by section 1;

“individual”;

“individual” has the meaning assigned by section 1;

“net capital loss”;

“net capital loss” has the meaning assigned by section 730;

“proceeds of disposition”;

“proceeds of disposition” has the meaning assigned by section 251;

“qualified corporation”;

“qualified corporation” has the meaning assigned by section 725.1.3;

“qualifying person”;

“qualifying person” has the meaning assigned by section 47.18;

“security”;

“security” has the meaning assigned by section 47.18;

“taxation year”.

“taxation year” has the meaning assigned by section 1.

History: 2011, c. 34, s. 113.

Corresponding Federal Provision: 180.01.

Election.

1086.28. Where, in a particular taxation year preceding the taxation year 2015, an individual has disposed of or exchanged a security of a qualifying person in respect of which the individual made a valid election under paragraph *b* of section 58.0.1, as it read before being repealed, and the individual makes an election, in the manner and within the time specified in the second paragraph, for the particular year in relation to the security, the following rules apply:

(a) the percentage specified in section 725.2 in relation to the benefit deemed to be received by the individual under section 49 for the particular year in respect of the security is to be replaced by

i. 75%, where the security has been disposed of or exchanged after 30 March 2004,

ii. 87.5%, where the security has been disposed of or exchanged after 12 June 2003 and before 31 March 2004, or

iii. 100%, where the security has been disposed of or exchanged before 13 June 2003, or acquired under a right provided for in an agreement referred to in section 48 and entered into after 13 March 2008, from a qualifying person that is a qualified corporation for a particular calendar year including the time at which the individual acquired the security;

(b) for the purposes of Part I, the individual is deemed to have realized a capital gain for the particular year equal to the lesser of the amount of the benefit that the individual is deemed to have received in the particular year under section 49 in respect of the security and the capital loss determined under Part I and derived from the disposition of the security;

(c) the individual is liable to pay a tax for the particular year equal to 50% of the proceeds of disposition of the security;

(d) where the time limit provided for in paragraph *a* of subsection 2 of section 1010 has expired in respect of the particular year, the Minister may, for the purposes of Part I, make a reassessment and redetermine the tax, interest and penalties for the particular year in order to take the election into account; and

(e) despite section 1010 and as the circumstances require, the Minister shall redetermine the individual’s net capital loss for the particular year and reassess any taxation year in which an amount has been deducted under section 729.

Filing requirement.

An individual makes the election referred to in the first paragraph for a particular taxation year by filing with the Minister the prescribed form containing prescribed information

(a) on or before the individual’s filing-due date for the taxation year 2010 where the security has been disposed of or exchanged before 1 January 2010; or

(b) on or before the individual’s filing-due date for the particular year in which the security has been disposed of or exchanged, in any other case.

History: 2011, c. 34, s. 113.

Corresponding Federal Provision: 180.01(1) and (2).

Provisions applicable.

1086.29. Unless otherwise provided in this Part, sections 1002, 1004 to 1014, 1025, 1026 to 1026.2 and 1031.1 to 1079.16 apply to this Part, with the necessary modifications.

History: 2011, c. 34, s. 113; 2015, c. 36, s. 155.

Corresponding Federal Provision: 180.01(4).

PART II
INCOME EARNED IN QUÉBEC BY PERSONS NOT
RESIDENT IN QUÉBEC

TITLE I
GENERAL RULES

Application of Part I.

1087. Part I applies for computing the income of persons not resident in Québec, subject to this Part.

History: 1972, c. 23, s. 811.

Corresponding Federal Provision: 115(1)(part).

Income earned in Québec by non-resident.

1088. The income earned in Québec, for a taxation year, by an individual contemplated in section 25 is equal to the part of the income from businesses which he carries on that is attributed in prescribed manner to an establishment in Québec, less the part of the losses of the said businesses that is attributed to such establishment.

History: 1972, c. 23, s. 812; 1973, c. 17, s. 123.

Income earned in Québec by non-resident.

1089. The income earned in Québec, for a taxation year, by an individual contemplated in section 26 is his income as determined under section 28, taking into account only the following:

(a) the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties exceeds the aggregate of the amounts that, if the individual is an individual referred to in section 737.16.1, a foreign researcher within the meaning of section 737.19, a foreign researcher on a postdoctoral internship within the meaning of section 737.22.0.0.1, a foreign expert within the meaning of section 737.22.0.0.5, a foreign specialist within the meaning of section 737.22.0.1 or 737.22.0.4.1, a foreign professor within the meaning of section 737.22.0.5 or a foreign farm worker within the meaning of section 737.22.0.12, would be deductible in computing the individual's taxable income for the year under any of sections 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7 and 737.22.0.13 if the taxable income were determined under Part I;

(b) income from businesses carried on by him in Canada that is attributable, in prescribed manner, to an establishment in Québec;

(c) the taxable capital gains and allowable capital losses from dispositions of taxable Québec property, other than

i. property described in paragraph *c* or *d* of section 1094, and

ii. tax-agreement-protected property, within the meaning of section 1;

(d) the portion that is reasonably attributable to the disposition of a Québec resource property within the meaning of the regulations or to expenses incurred in Québec of the amount by which the amount required by paragraph *e* of section 330 to be included in computing his income for the year exceeds any portion of that amount that was included in computing his income from a business carried on by him in Canada;

(e) the portion that is reasonably attributable to the disposition of a Québec timber resource property within the meaning of the regulations of the amount by which the amounts that are required by sections 93 to 104 to be included in computing his income for the year in respect of the disposition of a timber resource property exceed any portion of those amounts that was included in computing his income from a business carried on by him in Canada;

(e.1) the amount that the individual would be required to include under paragraph *e.6* of section 311 in computing the individual's income for the year if the individual had been resident in Québec throughout the year, up to the portion of that amount that may reasonably be attributed to the duties of an office or employment performed by the individual in Québec;

(f) the excess of the amount which must, under section 684, be included in computing his income for the year in respect of the disposition of an income interest in a trust resident in Québec over the amount that would be deductible under section 665 in computing his income if he had been resident in Canada throughout the year;

(g) the amount by which the income determined under paragraphs *b* and *c* of section 1092 in respect of the individual exceeds the aggregate of the amounts that, if the individual is an individual referred to in section 737.16.1, a foreign researcher within the meaning of section 737.19, a foreign researcher on a postdoctoral internship within the meaning of section 737.22.0.0.1, a foreign expert within the meaning of section 737.22.0.0.5, a foreign specialist within the meaning of section 737.22.0.1 or 737.22.0.4.1 or a foreign professor within the meaning of section 737.22.0.5, would be deductible in computing the individual's taxable income for the year under any of sections 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7 and 737.22.0.7 if the individual's taxable income were determined under Part I;

(h) the amount, which is attributable in prescribed manner to an establishment of a partnership in Québec, by which the amount required by section 610 to be included in computing the income of the individual for the year as proceeds of the disposition of a right to a share of the income or loss of the partnership under an agreement mentioned therein exceeds the amount that would be deductible in that respect under

section 611 in computing his income if he had been resident in Canada throughout the year;

(i) the losses from duties of an office or employment performed by the individual in Québec and the losses from businesses carried on by the individual in Canada, other than tax-agreement-protected businesses, within the meaning of section 1, which are attributable in prescribed manner to an establishment in Québec;

(j) where, in the year, he carried on a business in Canada described in paragraphs *a* to *g* of section 363, the amounts in respect of any Québec resource property within the meaning of paragraph *d* that the individual would be required to include in computing his income for the year under Part I if he were resident in Québec, to the extent that such amounts are not already included in computing his income under paragraph *b* or *d*;

(k) the amount that, if the individual had been resident in Québec throughout the year, would be included under section 968 or 968.1 in computing his income in respect of an interest in a life insurance policy issued or subscribed by an insurer, on the life of a person resident in Québec at the time of the issue or subscription; and

(l) where the individual has been carrying on business in Canada in the year, the amounts relating to a Québec resource property within the meaning of subparagraph *d*, except where an amount in respect of the disposition of such property is deducted under section 412 or 418.6, to a Québec timber resource property within the meaning of subparagraph *e*, other than depreciable property, or to property, other than capital property, that is an immovable situated in Québec, to the extent that such amounts are not already included under subparagraph *b*, *d*, *e* or *j* in computing his income.

Particular cases.

However, the income earned in Québec for a taxation year by an individual who is a foreign specialist, within the meaning of section 737.18.6 or 737.18.29, who is an eligible individual, within the meaning of section 737.22.0.9, or who is described in section 66 of the Act respecting international financial centres (chapter C-8.3), is the amount by which the particular amount that is determined in respect of the individual for the year under the first paragraph exceeds the aggregate of

(a) the portion of the particular amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year;

(b) the product obtained by multiplying the portion of the particular amount that is included in the part of the

individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined in subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(c) the product obtained by multiplying the portion of the particular amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, by the percentage determined in subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period; and

(d) the portion of the particular amount that is included in the amount determined in respect of the individual for the year under section 737.22.0.10.

Member of a partnership operating an international financial centre.

In addition, for the purposes of subparagraphs *b* and *i* of the first paragraph in the case of an individual who is a member of a partnership operating an international financial centre, within the meaning of section 6 of the Act respecting international financial centres, it shall be assumed that the individual had, for the year,

(a) realized an additional income from a business the individual carried on in Canada, that is attributable to an establishment in Québec and equal to the second aggregate that is mentioned in the first paragraph of section 52 of that Act and determined in respect of the individual for the year under that paragraph; and

(b) sustained an additional loss from a business the individual carried on in Canada, that is attributable to an establishment in Québec and equal to the first aggregate that is mentioned in the first paragraph of section 52 of that Act and determined in respect of the individual for the year under that paragraph.

Income earned in Québec by a forest producer.

For the purposes of the first paragraph, the amount that is determined in respect of an individual for a taxation year under the first paragraph is to be increased by the amount that would be included in computing the individual's taxable income for the year under section 726.35 or 726.43 and reduced by the amount that the individual could deduct in computing the individual's taxable income for the year under section 726.33, if the taxable income were determined under Part I.

Income earned in Québec by an aircraft pilot.

For the purposes of subparagraph *a* of the first paragraph, in the case of an individual employed as an aircraft pilot, the individual's income from the duties of that employment performed by the individual in Québec, in relation to the individual's income that is attributable to a flight (including a leg of a flight) and paid directly or indirectly by a person resident in Canada, is

(a) all of the income attributable to the flight if the flight departs from a location in Québec and arrives at a location in Québec;

(b) one-half of the income attributable to the flight if the flight departs from a location in Québec and arrives at a location outside Québec;

(c) one-half of the income attributable to the flight if the flight departs from a location outside Québec and arrives at a location in Québec; or

(d) none of the income attributable to the flight if the flight departs from a location outside Québec and arrives at a location outside Québec.

History: 1972, c. 23, s. 813; 1973, c. 17, s. 124; 1975, c. 22, s. 242; 1978, c. 26, s. 210; 1982, c. 5, s. 196; 1984, c. 15, s. 236; 1986, c. 19, s. 196; 1987, c. 21, s. 82; 1988, c. 4, s. 140; 1993, c. 16, s. 344; 1994, c. 22, s. 333; 1995, c. 1, s. 181; 1997, c. 3, s. 71; 1997, c. 85, s. 298; 1999, c. 83, s. 237; 1999, c. 86, s. 86; 2000, c. 39, s. 220; 2001, c. 53, s. 242; 2002, c. 40, s. 229; 2003, c. 9, s. 385; 2004, c. 8, s. 185; 2004, c. 21, s. 448; 2005, c. 38, s. 305; 2006, c. 36, s. 215; 2010, c. 3, s. 295; 2010, c. 5, s. 185; 2011, c. 6, s. 214; 2013, c. 10, s. 150; 2015, c. 24, s. 152; 2017, c. 29, s. 204.

Interpretation Bulletins: IMP. 1089-1/R1.

Corresponding Federal Provision: 115(1) and (3).

Income earned in Canada.

1090. The income earned in Canada by an individual contemplated in section 26, for a taxation year, shall be his income as determined under section 28 by taking into account only the following:

(a) the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties exceeds the aggregate of the amounts that, if the individual is an individual referred to in section 737.16.1, a foreign researcher within the meaning of section 737.19, a foreign researcher on a postdoctoral internship within the meaning of section 737.22.0.0.1, a foreign expert within the meaning of section 737.22.0.0.5, a foreign specialist within the meaning of section 737.22.0.1 or 737.22.0.4.1, a foreign professor within the meaning of section 737.22.0.5 or a foreign farm worker within the

meaning of section 737.22.0.12, would be deductible in computing the individual's taxable income for the year under any of sections 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7 and 737.22.0.13 if the taxable income were determined under Part I;

(b) income from businesses that he has carried on in Canada that is attributable in prescribed manner to an establishment in Canada;

(c) the taxable capital gains and allowable capital losses from dispositions of taxable Canadian property, other than tax-agreement-protected property, within the meaning of section 1;

(d) the amount by which the amount required by paragraph *e* of section 330 to be included in computing his income for the year exceeds any portion of that amount that was included in computing his income from a business carried on by him in Canada;

(e) the amount by which the amounts required by sections 93 to 104 to be included in computing his income for the year in respect of the disposition of a timber resource property exceed any portion of those amounts that was included in computing his income from a business carried on by him in Canada;

(e.1) the amount that the individual would be required to include under paragraph *e.6* of section 311 in computing the individual's income for the year if the individual had been resident in Canada throughout the year;

(f) the excess of the amount which must, under section 684, be included in computing his income for the year in respect of the disposition of an income interest in a trust resident in Canada over the amount that would be deductible under section 665 in computing his income if he had been resident in Canada throughout the year;

(g) the amount by which the income that would be determined under paragraphs *b* and *c* of section 1092 in respect of the individual if the word "Québec", in sections 1092 and 1093, were replaced, wherever it appears, by the word "Canada", exceeds the aggregate of the amounts that, if the individual is an individual referred to in section 737.16.1, a foreign researcher within the meaning of section 737.19, a foreign researcher on a postdoctoral internship within the meaning of section 737.22.0.0.1, a foreign expert within the meaning of section 737.22.0.0.5, a foreign specialist within the meaning of section 737.22.0.1 or 737.22.0.4.1 or a foreign professor within the meaning of section 737.22.0.5, would be deductible in computing the individual's taxable income for the year under any of sections 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7 and 737.22.0.7 if the individual's taxable income were determined under Part I;

(h) the amount by which the amount required by section 610 to be included in computing his income for the year as proceeds of the disposition of a right to a share of the income or loss of a partnership under an agreement mentioned therein exceeds the amount that would be deductible in that respect under section 611 in computing his income if he had been resident in Canada throughout the year;

(i) the losses from duties of an office or employment performed by the individual in Canada and the losses from businesses carried on by the individual in Canada, other than tax-agreement-protected businesses, within the meaning of section 1, which are attributable in prescribed manner to an establishment in Canada;

(j) where, in the year, he has carried on a business in Canada described in paragraphs *a* to *g* of section 363, the amounts in respect of any Canadian resource property that he would be required to include in computing his income for the year under Part I if he were resident in Canada at any time in the year to the extent that such amounts are not already included in computing his income under paragraph *b* or *d*;

(k) the amount that, under section 968 or 968.1, would be included in computing his income in respect of an interest in a life insurance policy in Canada if he had been resident in Canada throughout the year; and

(l) where the individual has been carrying on business in Canada in the year, the amounts relating to a Canadian resource property, except where an amount in respect of the disposition of such property is deducted under section 412 or 418.6, to a timber resource property, other than depreciable property, or to property, other than capital property, that is an immovable situated in Canada, to the extent that those amounts are not already included under subparagraph *b*, *d*, *e* or *j* in computing his income.

Particular cases.

However, the income earned in Canada for a taxation year by an individual who is a foreign specialist, within the meaning of section 737.18.6 or 737.18.29, who is an eligible individual, within the meaning of section 737.22.0.9, or who is described in section 66 of the Act respecting international financial centres (chapter C-8.3), is the amount by which the particular amount that is determined in respect of the individual for the year under the first paragraph exceeds the aggregate of

(a) the portion of the particular amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period, within the meaning of section 737.18.6, in relation to an employment that is included in the year;

(b) the product obtained by multiplying the portion of the particular amount that is included in the part of the

individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined in subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(c) the product obtained by multiplying the portion of the particular amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of a specified period of the individual, within the meaning of section 737.18.29, in relation to an employment that is included in the year, by the percentage determined in subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period; and

(d) the portion of the particular amount that is included in the amount determined in respect of the individual for the year under section 737.22.0.10.

Member of a partnership operating an international financial centre.

In addition, for the purposes of subparagraphs *b* and *i* of the first paragraph in the case of an individual who is a member of a partnership operating an international financial centre, within the meaning of section 6 of the Act respecting international financial centres, it shall be assumed that the individual had, for the year,

(a) realized an additional income from a business the individual carried on in Canada, attributable to an establishment in Canada and equal to the second aggregate that is mentioned in the first paragraph of section 52 of that Act and determined in respect of the individual for the year under that paragraph; and

(b) sustained an additional loss from a business the individual carried on in Canada, attributable to an establishment in Canada and equal to the first aggregate that is mentioned in the first paragraph of section 52 of that Act and determined in respect of the individual for the year under that paragraph.

Income earned in Canada by a forest producer.

For the purposes of the first paragraph, the amount that is determined in respect of an individual for a taxation year under the first paragraph is to be increased by the amount that would be included in computing the individual's taxable income for the year under section 726.35 or 726.43 and reduced by the amount that the individual could deduct in computing the individual's taxable income for the year under section 726.33, if the taxable income were determined under Part I.

Income earned in Canada by an aircraft pilot.

For the purposes of subparagraph *a* of the first paragraph, in the case of an individual employed as an aircraft pilot, the individual's income from the duties of that employment performed by the individual in Canada, in relation to the individual's income that is attributable to a flight (including a leg of a flight) and paid directly or indirectly by a person resident in Canada, is

(a) all of the income attributable to the flight if the flight departs from a location in Canada and arrives at a location in Canada;

(b) one-half of the income attributable to the flight if the flight departs from a location in Canada and arrives at a location outside Canada;

(c) one-half of the income attributable to the flight if the flight departs from a location outside Canada and arrives at a location in Canada; or

(d) none of the income attributable to the flight if the flight departs from a location outside Canada and arrives at a location outside Canada.

History: 1972, c. 23, s. 814; 1973, c. 17, s. 125; 1975, c. 22, s. 243; 1978, c. 26, s. 211; 1982, c. 5, s. 197; 1984, c. 15, s. 237; 1986, c. 19, s. 197; 1987, c. 21, s. 83; 1988, c. 4, s. 141; 1993, c. 16, s. 345; 1994, c. 22, s. 334; 1995, c. 1, s. 182; 1995, c. 49, s. 232; 1997, c. 3, s. 71; 1997, c. 85, s. 299; 1999, c. 83, s. 238; 1999, c. 86, s. 87; 2000, c. 39, s. 221; 2001, c. 53, s. 243; 2002, c. 40, s. 230; 2003, c. 9, s. 386; 2004, c. 8, s. 186; 2004, c. 21, s. 449; 2005, c. 38, s. 306; 2006, c. 36, s. 216; 2010, c. 3, s. 296; 2010, c. 5, s. 186; 2013, c. 10, s. 151; 2015, c. 24, s. 153; 2017, c. 29, s. 205.

Interpretation Bulletins: IMP. 1089-1/R1.

Corresponding Federal Provision: 115(1) and (3).

Business deemed carried on in Canada.

1090.1. For the purposes of this Part, where an individual referred to in section 26 or a corporation referred to in the first paragraph of section 27 disposes, in a taxation year, of property referred to in subparagraph *l* of the first paragraph of either of section 1089 or 1090, the individual or the corporation is deemed, in respect of such disposition, to have been carrying on business in Canada during the year.

History: 1993, c. 16, s. 346; 1994, c. 22, s. 335; 1997, c. 3, s. 71; 1997, c. 14, s. 261; 2001, c. 53, s. 244.

Interpretation.

1090.2. For the purposes of subparagraph *l* of the first paragraph of sections 1089 and 1090, and section 1090.1, property that is an immovable or a timber resource property includes, at a particular time, a right in the property and an option in respect of the property, even if, in the case of an immovable, the property is not in existence at that time.

History: 1993, c. 16, s. 346; 2020, c. 16, s. 181.

Taxable income earned in Canada.

1091. The taxable income earned in Canada by an individual referred to in section 26 is equal to the amount by which the aggregate of the income referred to in section 1090 and the amount that, had the individual been resident in Québec throughout the year, would be included under section 313.8 in computing the individual's income for the year, exceeds the aggregate of

(a) the deductions permitted by sections 725, 725.1.2 and 725.2 to 725.4, to the extent that they relate to amounts included in computing the individual's income earned in Canada under section 1090;

(b) such of the deductions permitted by sections 727, 728.1, 729, 731 and 733.0.0.1 as may reasonably be considered to be applicable to the services the individual rendered in an office or employment in Canada, to an establishment in Canada of a business carried on by the individual in Canada or to a disposition of property, any income or gain on which would have been required to be included in computing the individual's income earned in Canada under section 1090;

(b.1) the deduction permitted by section 1091.0.1; and

(c) where all or substantially all of the individual's income for the year, as determined under section 28, is included in computing the individual's taxable income earned in Canada for the year, determined with reference to the second paragraph, such of the other deductions from income, except the deductions described in sections 726.33, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7, 737.22.0.10 and 737.22.0.13, permitted for the purpose of computing the individual's taxable income as may reasonably be considered wholly applicable.

Special rule.

For the purposes of subparagraph *c* of the first paragraph, the taxable income earned in Canada by an individual for a taxation year is determined as if section 1090 were read for the year without reference to its second, third and fourth paragraphs and as if subparagraph *a* of the first paragraph of that section were replaced, for the year, by the following subparagraph:

“(a) the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was

resident in Canada at the time the individual performed the duties;”.

History: 1972, c. 23, s. 815; 1984, c. 15, s. 238; 1985, c. 25, s. 161; 1986, c. 19, s. 198; 1987, c. 21, s. 84; 1987, c. 67, s. 197; 1988, c. 4, s. 142; 1989, c. 5, s. 237; 1989, c. 77, s. 107; 1993, c. 64, s. 184; 1995, c. 1, s. 183; 1996, c. 39, s. 259; 1997, c. 85, s. 300; 1999, c. 83, s. 239; 1999, c. 86, s. 88; 2000, c. 39, s. 264; 2001, c. 53, s. 245; 2002, c. 40, s. 231; 2003, c. 9, s. 387; 2004, c. 8, s. 187; 2006, c. 36, s. 217; 2010, c. 25, s. 195; 2013, c. 10, s. 152; 2015, c. 36, s. 156.

Interpretation Bulletins: IMP. 1091-1.

Corresponding Federal Provision: 115(1)(d), (e), (e.1) and (f).

Foreign resource pool expenses.

1091.0.1. Where an individual ceases at any time after 27 February 2000 to be resident in Canada, a taxation year, in this section referred to as the “particular year”, of the individual ends after that time and the individual was not resident in Canada throughout the period that begins at that time and ends at the end of the particular year, the following rules apply:

(a) in computing the individual’s taxable income earned in Canada for the particular year, the individual may deduct each amount that would be permitted to be deducted in computing the individual’s income for the particular year under section 371 or 418.1.10 if

i. section 371 were read with the reference to “who is resident in Canada throughout a taxation year may deduct, in computing the taxpayer’s income for that year” in the portion before paragraph *a* thereof replaced by “may deduct, in computing the taxpayer’s income for a taxation year”,

ii. the amount determined under paragraph *b* of section 374 were equal to zero,

iii. section 418.1.10 were read with the reference to “for a taxation year throughout which the taxpayer is resident in Canada” in the portion before paragraph *a* thereof replaced by “for a taxation year”, and

iv. each of the amounts determined under subparagraph ii of paragraph *a* of section 418.1.10 and paragraph *b* of that section were equal to zero; and

(b) an amount deducted under this section in computing the individual’s taxable income earned in Canada for the particular year is deemed, for the purpose of applying section 371 or 418.1.10, as the case may be, to a subsequent taxation year, to have been deducted in computing the individual’s income for the particular year.

History: 2004, c. 8, s. 188.

Corresponding Federal Provision: 115(4.1).

1091.1. (*Repealed*).

History: 1986, c. 15, s. 193; 1987, c. 21, s. 85.

TITLE I.1 INVESTMENT SERVICES PROVIDED TO FOREIGNERS

Definitions:

1091.2. In this Title,

“*Canadian investor*”;

“Canadian investor”, at any time in relation to a person not resident in Canada, means a person that the person not resident in Canada knows, or ought to know after reasonable inquiry, is at that time resident in Canada;

“*Canadian service provider*”;

“Canadian service provider” means a corporation or a trust resident in Canada or a Canadian partnership;

“*designated investment services*”;

“designated investment services” provided to a person or partnership means any one or more of the services described in the following paragraphs:

(a) investment management or advice with respect to qualified investments, regardless of whether the manager has discretionary authority to buy or sell;

(b) purchasing or selling qualified investments, exercising rights incidental to the ownership of qualified investments such as voting, conversion or exchange;

(c) entering into or executing agreements with respect to services referred to in paragraph *b*;

(d) investment administration services, such as receiving, delivering and having custody of investments, calculating and reporting investment values, receiving subscription amounts from, and paying distributions and proceeds of disposition to, investors in or beneficiaries of the person or partnership, record keeping, accounting and reporting to the person or partnership and its investors and beneficiaries; and

(e) if the service is provided to a corporation, trust or partnership the only undertaking of which is the investing of its funds in qualified investments, marketing shares of its capital stock or interests in itself to investors not resident in Canada;

“*promoter*”;

“promoter” of a corporation, trust or partnership means a particular person or partnership that initiates or directs the founding, organization or substantial reorganization of the corporation, trust or partnership, and a person or partnership that is affiliated with the particular person or partnership;

“*qualified investment*”.

“qualified investment” of a person or partnership means

(a) a share of the capital stock of a corporation, or an interest in a partnership, trust, entity, organization or fund, other than a share or an interest

i. that is either a security not listed on a designated stock exchange, or listed on such a stock exchange, if the person or partnership, together with all persons with whom the person or partnership does not deal at arm's length, owns 25% or more of the issued shares of any class of the capital stock of the corporation or of the total value of interests in the partnership, trust, entity, organization or fund, as the case may be, and

ii. of which more than 50% of the fair market value is derived from one or more of the following properties:

- (1) an immovable situated in Canada,
- (2) Canadian resource property, and
- (3) timber resource property;
- (b) indebtedness;
- (c) annuities;
- (d) commodities or commodities futures purchased or sold, directly or indirectly in any manner whatever, on a commodities or commodities futures exchange;
- (e) currency; and
- (f) options, interests, rights and forward and futures agreements in respect of property described in any of paragraphs *a* to *e* or this paragraph, and agreements under which obligations are derived from interest rates, from the price of property described in any of those paragraphs, from payments made in respect of such a property by its issuer to holders of the property, or from an index reflecting a composite measure of such rates, prices or payments, whether or not the agreement creates any rights in or obligations regarding the referenced property itself.

History: 2001, c. 53, s. 246; 2004, c. 8, s. 189; 2010, c. 5, s. 187.

Corresponding Federal Provision: 115.2(1).

Person not resident in Canada not considered to be carrying on business in Canada.

109L3. For the purposes of Part I and this Part, a person not resident in Canada is not considered to be carrying on a business in Canada at any particular time solely because of the provision to the person, or to a partnership of which the person is a member, at the particular time of designated investment services by a Canadian service provider if

(a) in the event that the person not resident in Canada is an individual other than a trust, the person is not affiliated at the particular time with the Canadian service provider;

(b) in the event that the person not resident in Canada is a corporation or trust,

i. the person has not, before the particular time, directly or through a mandatary, sold a share of its capital stock or an interest in itself, such a share and such an interest in this

section referred to as an "investment", that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time, nor directed any promotion of investments in itself principally at Canadian investors,

ii. the person has not, before the particular time, directly or through a mandatary, filed any document with a public authority in Canada in accordance with the securities legislation of Canada or of any province in order to permit the distribution of investments in the person to persons resident in Canada, and

iii. where the particular time is more than one year after the time at which the person was created, the total of the fair market value, at the particular time, of investments in the person that are beneficially owned by a person or partnership that is affiliated with the Canadian service provider and is not a designated entity in respect of the Canadian service provider, does not exceed 25% of the fair market value, at the particular time, of all investments in the person; and

(c) in the event that the person not resident in Canada is a member of a partnership,

i. the particular time is within one year after the time the partnership was formed,

ii. where the person not resident in Canada is, or is affiliated with, a person or partnership described in subparagraph 1 or 2, the fair market value, at the particular time, of all interests in the partnership is not less than four times the total of the fair market value of each interest in the partnership that is beneficially owned at the particular time by

(1) a particular person or a particular partnership (other than a designated entity in respect of the Canadian service provider), where persons or partnerships (other than designated entities in respect of the Canadian service provider) that are affiliated with the Canadian service provider are beneficial owners of more than 25% of the fair market value, at the particular time, of all shares of the particular person or all interests in the particular partnership, as the case may be, or

(2) a person or a partnership (other than a designated entity in respect of the Canadian service provider) that is affiliated with the Canadian service provider, or

iii. at the particular time, the person not resident in Canada is affiliated neither with the Canadian service provider nor with any person or partnership (other than the partnership to which the services are provided) described in subparagraph 1 or 2 of subparagraph ii.

Rules of application.

For the purposes of this paragraph and subparagraph iii of subparagraph *b* and subparagraph ii of subparagraph *c* of the first paragraph,

(a) the fair market value of an investment in a corporation or trust or an interest in a partnership shall be determined without regard to any voting rights attaching to that investment; and

(b) a person or partnership is, at a particular time, a designated entity in respect of a Canadian service provider if the total of the fair market value, at the particular time, of investments in the designated entity or interests in the partnership, as the case may be, that are beneficially owned by a person or partnership that is affiliated with the Canadian service provider and is not another designated entity in respect of the Canadian service provider, does not exceed 25% of the fair market value, at the particular time, of all investments in the entity or of such interests, as the case may be.

History: 2001, c. 53, s. 246; 2004, c. 8, s. 190; 2015, c. 24, s. 154.

Corresponding Federal Provision: 115.2(2) and (3).

Presumption for the application of the provisions respecting transfer pricing.

1091.4. For the purposes of Title I.2 of Book XI of Part I, where section 1091.3 applies to a person that is a corporation or trust or to a partnership, if the Canadian service provider referred to in that section does not deal at arm's length with the promoter of the person or of the partnership, the Canadian service provider is deemed not to deal at arm's length with the person or partnership.

History: 2001, c. 53, s. 246; 2004, c. 8, s. 190.

Corresponding Federal Provision: 115.2(4).

**TITLE II
STUDENTS, PROFESSORS AND EMPLOYEES**

Rules applicable to students, professors and non-resident employees.

1092. A student, a professor or an employee not resident in Canada and contemplated in section 1093:

(a) is deemed to have been employed in Québec during the year for the purposes of section 26;

(b) has an income, for the purposes of paragraph g of each of sections 1089 and 1090, equal to the aggregate:

i. of the remuneration which he has received in the year in respect of an office or employment that was paid to him directly or indirectly by a person resident in Canada, except to the extent that such remuneration is attributable to the duties performed by him outside Canada and was subject to an income or profits tax imposed by the government of a country other than Canada, or was paid in connection with the selling of property, the negotiating of contracts or the rendering of services for his employer, a foreign affiliate of his employer or for another person with whom his employer does not deal at arm's length, in the ordinary course of a

business carried on by his employer, that foreign affiliate or that other person;

ii. of amounts which, under paragraphs *i* of section 311 and *g* and *h* of section 312, would be included in computing his income for the year if he had been resident in Québec throughout the year, to the extent that such amounts are derived from a Canadian source; and

iii. of amounts described in paragraph *e* of section 1093 received by him in the year, except to the extent that they are otherwise required to be included in computing his income earned in Québec for the year;

iv. *(subparagraph repealed)*;

(c) may deduct, in computing their income for the year, an amount that would be deductible under sections 348 to 350 if

i. paragraph *a* of section 349.1 were read as follows:

“(a) the relocation occurs to enable the individual to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution, that institution being in this chapter referred to as “the new work location”;”, and

ii. the amounts mentioned in subparagraph ii of paragraph *c* of section 348 were those mentioned in subparagraph ii of paragraph *b*.

History: 1972, c. 23, s. 816; 1973, c. 17, s. 126; 1975, c. 22, s. 245; 1979, c. 18, s. 74; 1984, c. 15, s. 239; 1986, c. 15, s. 194; 1993, c. 64, s. 185; 1994, c. 22, s. 350; 1995, c. 49, s. 233; 2001, c. 53, s. 247; 2009, c. 5, s. 500; 2015, c. 21, s. 500.

Corresponding Federal Provision: 115(2)(d), (e) and (f).

Application of s. 1092.

1093. Section 1092 applies to an individual not resident in Canada who, in a taxation year, is:

(a) a student attending on a full-time basis in Québec a university, college or other institution providing courses at a post-secondary level;

(b) a student attending courses, or a professor teaching in a university, college or other institution providing courses at the post-secondary level situated outside Canada, if such student or professor, during a previous taxation year, has ceased to be a resident of Québec in the course of attending that institution or teaching there as the case may be;

(c) an individual who, during a previous taxation year, has ceased to be a resident of Québec in order to carry on research or a similar work under a grant which he has received for that purpose;

(d) an individual

i. who has, in any previous taxation year, ceased to be resident in Québec,

ii. who receives, in the year, salary or wages or other remuneration in respect of an office or employment that is paid to the individual directly or indirectly by a person resident in Canada, and

iii. who is, under a tax agreement, within the meaning of section 1, with one or more countries, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of the salary or wages or other remuneration referred to in subparagraph ii; or

(e) an individual who receives in the year an amount, under a contract, that is or will be deductible in computing the income of a taxpayer subject to tax under Part I and that can, irrespective of the contract, reasonably be regarded as having been received, in whole or in part

i. as remuneration from an office or employment or compensation for services rendered in Québec; or

ii. as consideration for entering into a contract of service or an agreement to render such service in Québec, or for undertaking not to enter into such a contract or agreement with a third party.

History: 1972, c. 23, s. 817; 1973, c. 17, s. 127; 1984, c. 15, s. 240; 1994, c. 22, s. 350; 2001, c. 53, s. 248.

Corresponding Federal Provision: 115(2)(a), (b), (b.1), (c) and (c.1).

TITLE III TAXABLE QUÉBEC PROPERTY

Taxable Québec property.

1094. For the purposes of this Part, taxable Québec property of a taxpayer at a particular time in a taxation year means

(a) an immovable property situated in Québec;

(b) property used in Québec by the taxpayer in carrying on a business, property used in Québec and included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in relation to a business, or property used in Québec and included in the inventory of a business, other than

i. property used in carrying on an insurance business, and

ii. where the taxpayer is not resident in Canada, ships and aircraft used principally in international traffic and movable property pertaining to their operation if the country in which the taxpayer is resident does not impose tax on gains of persons resident in Canada from dispositions of such property;

(b.1) any capital property used or held in Québec by an insurer in the year that is its designated insurance property, within the meaning of section 818, for the year;

(c) a share of the capital stock of a corporation (other than a mutual fund corporation) that is not listed on a designated stock exchange, an interest in a partnership or an interest in a trust (other than a unit of a mutual fund trust or an income interest in a trust resident in Canada), if, at any time during the 60-month period that ends at the particular time, more than 50% of the fair market value of the share or interest, as the case may be, was derived directly or indirectly (otherwise than through a corporation, partnership or trust the shares or interests in which were not themselves taxable Québec property) from one or any combination of

i. an immovable property situated in Québec,

ii. a Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089,

iii. a Québec timber resource property within the meaning of subparagraph *e* of the first paragraph of section 1089, and

iv. a right in or an option in respect of a property described in any of subparagraphs i to iii, whether or not the property exists; and

(c.1) *(paragraph repealed)*;

(d) a share of the capital stock of a corporation that is listed on a designated stock exchange, a share of the capital stock of a mutual fund corporation or a unit of a mutual fund trust, if, at any time during the 60-month period that ends at the particular time,

i. 25% or more of the issued shares of any class of shares of the capital stock of the corporation, or 25% or more of the issued units of the trust, as the case may be, were owned by or belonged to one or any combination of the taxpayer, persons with whom the taxpayer did not deal at arm's length and partnerships in which the taxpayer or a person with whom the taxpayer did not deal at arm's length holds an interest directly or indirectly through one or more other partnerships, and

ii. more than 50% of the fair market value of the share or unit, as the case may be, was derived directly or indirectly from one or any combination of properties described in subparagraphs i to iv of paragraph *c*;

(e) *(paragraph repealed)*;

(f) *(paragraph repealed)*;

(g) *(paragraph repealed)*;

(h) *(paragraph repealed)*;

(h.1) (paragraph repealed);

(i) (paragraph repealed).

History: 1972, c. 23, s. 818; 1973, c. 17, s. 128; 1973, c. 18, s. 29; 1975, c. 22, s. 246; 1984, c. 15, s. 241; 1986, c. 19, s. 199; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1998, c. 16, s. 243; 2001, c. 7, s. 155; 2004, c. 8, s. 191 [amended by 2009, c. 15, s. 541]; 2005, c. 1, s. 279; 2010, c. 5, s. 188; 2011, c. 6, s. 215; 2015, c. 24, s. 155; 2017, c. 1, s. 370; 2019, c. 14, s. 436.

Corresponding Federal Provision: 248(1) “taxable Canadian property”.

Taxable Canadian property.

1095. For the purposes of this Part, the expression “taxable Canadian property” has the meaning that would be assigned by the definition of “taxable Québec property” in section 1094 if

(a) section 1094 were read as if “Québec property” and “Québec” were replaced, wherever they appear except in subparagraphs ii and iii of paragraph *c*, by “Canadian property” and “Canada”, respectively;

(b) subparagraph ii of paragraph *c* of section 1094 were read as if “Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089” were replaced by “Canadian resource property”; and

(c) subparagraph iii of paragraph *c* of section 1094 were read as if “Québec timber resource property within the meaning of subparagraph *e* of the first paragraph of section 1089” were replaced by “timber resource property”.

History: 1972, c. 23, s. 819; 2019, c. 14, s. 437.

Application of ss. 1094 and 1095.

1096. For the purposes of sections 1094 and 1095, a property is deemed to include, at a particular time, a right in or an option in respect of the property, whether or not the property exists at that time.

History: 1975, c. 22, s. 247; 1986, c. 19, s. 200; 1993, c. 16, s. 347; 1997, c. 3, s. 71; 2001, c. 7, s. 156; 2011, c. 6, s. 216.

Taxation year of person having ceased to carry on business.

1096.1. If, in a taxation year, a person not resident in Canada ceases at any particular time to carry on a business described in paragraphs *a* to *g* of section 363 that the person was carrying on immediately before such cessation in one or more fixed places of business in Canada and either the person does not, after that time and during the same year, resume carrying on such a business at a fixed place of business in Canada or the person disposes of Canadian resource property at any time in the year during which the person was not carrying on such a business at a fixed place of business in Canada,

(a) in the case where the person is a corporation or a succession that is a graduated rate estate, a new taxation year is deemed to begin immediately after the particular time; and

(b) in the case where the person is an individual, other than a succession that is a graduated rate estate, the person’s taxation year is deemed to end at the particular time and a new taxation year is deemed to begin immediately after that time.

History: 1982, c. 5, s. 198; 1986, c. 19, s. 201; 1996, c. 39, s. 260; 2009, c. 5, s. 501; 2017, c. 1, s. 371.

Corresponding Federal Provision: 115(4)(a).

Computation of income.

1096.2. For the purposes of computing the income earned in Québec or the income earned in Canada by a person contemplated in section 1096.1 for the taxation year that ends at the particular time referred to in section 1096.1 or that begins immediately thereafter, such person or any partnership, other than a prescribed partnership, of which he is a member immediately after the particular time, is deemed, in the first case, to have disposed immediately before that time of each Canadian resource property that was owned by the person or partnership immediately after that time and to have received proceeds of disposition therefor, immediately before that time, equal to its fair market value at that time and, in the second case, to have reacquired, immediately after the particular time, each of such properties at a cost equal to the proceeds of disposition that the person or partnership is deemed to have received therefor.

History: 1982, c. 5, s. 198; 1986, c. 19, s. 201; 1997, c. 3, s. 71; 2009, c. 5, s. 502.

Corresponding Federal Provision: 115(4)(b) and (c).

Disposition of property by an individual not resident in Canada.

1097. An individual not resident in Canada who proposes to dispose of any taxable Québec property other than property described in section 1102.1, property described in paragraph *c* or *d* of section 1094, or an excluded property may, before the disposition, send to the Minister a notice setting out

(a) the name and address of the proposed purchaser;

(b) a description of the property sufficiently precise to recognize it;

(c) the estimated amount of the proceeds of disposition to be received by him for such property; and

(d) the amount of the adjusted cost base of such property on the date of such notice.

Disposition of property by a corporation not resident in Canada.

The same rule applies in the case of a corporation not resident in Canada which proposes to dispose of a taxable Québec property which would be referred to in the first paragraph if that paragraph were read without reference to “, property described in paragraph *c* or *d* of section 1094.”

History: 1972, c. 23, s. 820; 1973, c. 17, s. 129; 1982, c. 5, s. 199; 1984, c. 35, s. 31; 1996, c. 39, s. 261; 1997, c. 3, s. 71; 2001, c. 7, s. 157; 2004, c. 8, s. 192; 2011, c. 6, s. 217.

Corresponding Federal Provision: 116(1).

Minister’s certificate regarding proposed disposition.

1098. The Minister shall issue without delay to the person contemplated in section 1097 and to the proposed purchaser upon receipt of the notice provided for in the said section and upon payment, on account of tax payable by such person, of an amount equal to 12.875% of the excess of the amount mentioned in subparagraph *c* of the first paragraph of section 1097 over that mentioned in subparagraph *d* of the said paragraph or upon the furnishing of a surety acceptable to the Minister in that respect, a certificate in prescribed form fixing the amount which such person proposes to receive from the disposition in accordance with subparagraph *c* of the said paragraph.

History: 1972, c. 23, s. 821; 1973, c. 18, s. 30; 1986, c. 15, s. 195; 1991, c. 25, s. 173; 2003, c. 2, s. 285; 2005, c. 23, s. 238; 2015, c. 21, s. 501.

Corresponding Federal Provision: 116(2).

Notice to Minister.

1099. Every person not resident in Canada shall, when the disposition of a property contemplated in section 1097 is made, give notice thereof to the Minister within ten days, by registered mail, where:

- (a) the notice provided for in the said section has not been sent;
- (b) the purchaser is not the proposed purchaser mentioned in the notice;
- (c) the estimated amount mentioned in the notice provided for in section 1097 is less than the actual proceeds of disposition of such property;
- (d) the amount of the adjusted cost base mentioned in the notice provided for in section 1097 in respect of such property exceeds its adjusted cost base immediately before its disposition.

Notice.

Such notice must contain the information mentioned in subparagraphs *a* and *b* of the first paragraph of section 1097 and indicate the actual proceeds of disposition of the

property and the amount of its adjusted cost base immediately before the disposition.

History: 1972, c. 23, s. 822; 1975, c. 83, s. 84; 1986, c. 15, s. 196; 1997, c. 14, s. 290; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181].

Corresponding Federal Provision: 116(3).

Minister’s certificate on disposition of property.

1100. The Minister shall issue without delay to the person contemplated in section 1099 and to the purchaser, upon receipt of the notice sent under the said section and upon payment, on account of tax payable by such person, of an amount equal to 12.875% of the excess of the proceeds of disposition of the property over its adjusted cost base immediately before its disposition or upon furnishing of a surety acceptable to the Minister in that respect, a certificate in prescribed form attesting such facts.

History: 1972, c. 23, s. 823; 1991, c. 25, s. 174; 2003, c. 2, s. 296; 2005, c. 23, s. 239; 2015, c. 21, s. 502.

Corresponding Federal Provision: 116(4).

Acquisition of property by a person not resident in Canada.

1101. Where a person, in this section referred to as the “purchaser”, acquires a taxable Québec property contemplated in section 1097 from a person not resident in Canada, in this section referred to as the “vendor”, the following rules apply:

- (a) the purchaser is liable to pay to the Minister, as tax on behalf of the vendor, an amount equal to 12.875% of the amount by which the purchase price of the property to the purchaser exceeds, as the case may be, the amount set forth in the certificate issued under section 1098 in respect of the disposition of the property by the vendor to the purchaser;
- (b) the purchaser is entitled to deduct from any amount which he pays to the vendor or to withhold from any amount which he credits him or to recover from him in any other manner the amount which he has paid under paragraph *a*;
- (c) *(subparagraph repealed)*;
- (d) the purchaser shall within the 30 days after the end of the month in which he acquires the property, pay to the Minister the amount for which he is liable under subparagraph *a*.

Restriction.

The first paragraph does not apply to a purchaser if

- (a) a certificate has been issued to the purchaser by the Minister under section 1100 in respect of the property;
- (b) section 1101.1 applies to the acquisition; or

(c) after reasonable inquiry, the purchaser had no reason to believe that the vendor was not resident in Canada.

History: 1972, c. 23, s. 824; 1973, c. 18, s. 31; 1975, c. 22, s. 248; 1984, c. 35, s. 32; 1991, c. 25, s. 175; 1997, c. 14, s. 290; 2003, c. 2, s. 287; 2009, c. 15, s. 369; 2015, c. 21, s. 503.

Corresponding Federal Provision: 116(5).

Tax-agreement-protected property.

1101.1. This section applies to the acquisition of a property by a person (in this section referred to as the “purchaser”) from a person not resident in Canada (in this section referred to as the “vendor”) if

(a) the purchaser concludes after reasonable inquiry that the vendor is, under a tax agreement, within the meaning of section 1, that Canada has with a particular country, a person resident in the particular country;

(b) the property would be tax-agreement-protected property, within the meaning of section 1, of the vendor if the vendor were, under the tax agreement referred to in paragraph *a*, a person resident in the particular country; and

(c) the purchaser provides notice in accordance with section 1101.2 in respect of the acquisition.

History: 2009, c. 15, s. 370.

Corresponding Federal Provision: 116(5.01).

Notice.

1101.2. A person (in this section referred to as the “purchaser”) who acquires a property from a person not resident in Canada (in this section referred to as the “vendor”) provides notice in accordance with this section if the purchaser sends to the Minister, on or before the day that is 30 days after the date of the acquisition, a notice setting out

(a) the date of the acquisition of the property;

(b) the name and address of the vendor;

(c) a description of the property sufficient to identify it;

(d) the amount paid or payable by the purchaser for the property; and

(e) the name of the country with which Canada has entered into a tax agreement, within the meaning of section 1, under which the property is a tax-agreement-protected property, within the meaning of that section, for the purposes of section 1101.1 or 1102.5.

History: 2009, c. 15, s. 370.

Corresponding Federal Provision: 116(5.02).

Disposition of property by a person not resident in Canada.

1102. Where a person not resident in Canada disposes or proposes to dispose of a property, other than excluded property, that is a life insurance policy described in subparagraph *k* of the first paragraph of section 1089, a Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089 or a taxable Québec property, to a person with whom the person not resident in Canada was not dealing at arm’s length, for no consideration or for consideration less than the fair market value at the time the person not resident in Canada so disposes of it or proposes to dispose of it, as the case may be, or to any person by way of gift *inter vivos*, the following rules apply:

(a) subparagraph *c* of the first paragraph of section 1097 must be read as a reference to “the amount he considers to be the fair market value of the property at the time he proposes to dispose of it”;

(b) the reference in section 1098 to the amount which such person proposes to receive from the disposition must be read as a reference to the amount that such person considers to be the fair market value of the property;

(c) the references in sections 1099 and 1100 to the proceeds or actual proceeds of disposition of the property must be read as references to the fair market value of the property immediately before it was disposed of; and

(d) the references in sections 1101 and 1102.2 to the purchase price of the property must be read as references to its fair market value at the time it was acquired.

Restriction.

The first paragraph does not apply when, by reason of the death of a person, a property is transferred or distributed on or after his death.

History: 1975, c. 22, s. 249; 1982, c. 5, s. 200; 1984, c. 15, s. 242; 1986, c. 15, s. 197; 1986, c. 19, s. 202; 2001, c. 7, s. 158; 2004, c. 8, s. 193; 2009, c. 5, s. 503; 2009, c. 15, s. 371.

Corresponding Federal Provision: 116(5.1).

Disposition of property by an individual not resident in Canada.

1102.1. Where a person not resident in Canada disposes or proposes to dispose to a taxpayer, in a taxation year, property (other than excluded property) that is a life insurance policy described in subparagraph *k* of the first paragraph of section 1089, a Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089, a Québec timber resource property within the meaning of subparagraph *e* of the first paragraph of section 1089, property (other than capital property) that is immovable property situated in Québec or depreciable property that is a taxable Québec property and the person not resident in Canada pays to the Minister, on account of tax payable for

the year by the person not resident in Canada such an amount as is reasonable to the Minister in respect of the disposition or proposed disposition of the property or furnishes the Minister with security acceptable to the Minister in respect of the disposition or proposed disposition of the property, the Minister shall forthwith issue to the person not resident in Canada and to the taxpayer a certificate in prescribed form fixing therein the amount of the proceeds of disposition or proposed disposition of the property or such other amount as is reasonable in the circumstances.

Interest or option in respect of immovable property.

Property described in the first paragraph includes, at a particular time, any right, interest or option in respect of the property, whether or not the property exists at that time.

History: 1982, c. 5, s. 201; 1984, c. 15, s. 243; 1986, c. 19, s. 203; 1993, c. 16, s. 348; 2001, c. 7, s. 159; 2004, c. 8, s. 194; 2009, c. 5, s. 504; 2015, c. 24, s. 156; 2019, c. 14, s. 438.

Corresponding Federal Provision: 116(5.2).

Rules applicable in respect of property acquired from a person not resident in Canada.

1102.2. Where in a taxation year a taxpayer acquires from a person not resident in Canada property referred to in section 1102.1, the following rules apply:

(a) the taxpayer shall pay, as tax on behalf of such person, an amount equal to 30% of the amount by which his purchase price of the property exceeds the amount indicated in the certificate referred to in section 1102.1;

(b) the taxpayer is entitled to deduct or withhold from any amount paid or credited by him to such person or to otherwise recover from such person the amount paid by him under subparagraph *a*; and

(c) the taxpayer shall, within 30 days after the end of the month in which he acquired the property, remit to the Minister the amount for which he is liable under subparagraph *a*.

Restriction.

The first paragraph does not apply to a taxpayer if section 1101.1 applies to the acquisition or if, after reasonable inquiry, the taxpayer had no reason to believe that the person from whom the taxpayer acquired the property was not resident in Canada.

History: 1982, c. 5, s. 201; 2009, c. 15, s. 372.

Corresponding Federal Provision: 116(5.3).

Disposition of life insurance policy by a person not resident in Canada.

1102.3. Where a person not resident in Canada has disposed of a life insurance policy referred to in paragraph *k* of section 1089, by virtue of section 967 or of a surrender, a policy loan, the dissolution of an interest in the policy by

virtue of the maturity of the policy or a particular payment referred to in paragraph *a* of section 966, the insurer is, for the purposes of sections 1102.1 and 1102.2, deemed to be the taxpayer who acquired the property for an amount equal to the proceeds of disposition as determined under sections 966 to 977.1.

History: 1984, c. 15, s. 244; 2001, c. 53, s. 249.

Corresponding Federal Provision: 116(5.4).

Excluded property.

1102.4. For the purposes of sections 1097, 1102 and 1102.1, excluded property of a person not resident in Canada means

(a) a property that is taxable Québec property solely because a provision of this Act deems it to be a taxable Québec property;

(a.1) property, other than an immovable property situated in Québec, a Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089 or a Québec timber resource property within the meaning of subparagraph *e* of the first paragraph of that section, that is used in Québec by the person and included in the inventory of a business;

(b) a security listed on a recognized stock exchange, that is

i. a share of a class of shares of the capital stock of a corporation, or

ii. an investment in a SIFT wind-up entity;

(c) a unit of a mutual fund trust;

(d) a bond, debenture, bill, note, hypothecary claim, mortgage or similar obligation;

(e) property of an insurer not resident in Canada that

i. is licensed or otherwise authorized under the laws of Canada or a province to carry on an insurance business in Canada, and

ii. carries on an insurance business, within the meaning of section 817, in Canada;

(f) property of an authorized foreign bank that carries on a Canadian banking business;

(g) an option in respect of property referred to in any of paragraphs *a* to *f* whether or not such property is in existence;

(h) an interest in property referred to in any of paragraphs *a* to *g*; and

(i) a property that is, at the time of its disposition, a tax-agreement-exempt property, within the meaning of section 1102.5, of the person.

History: 2001, c. 7, s. 160 [amended by 2009, c. 15, s. 540]; 2004, c. 8, s. 195 [amended by 2009, c. 15, s. 542]; 2005, c. 1, s. 280; 2009, c. 5, s. 505; 2009, c. 15, s. 373; 2010, c. 5, s. 189; 2010, c. 25, s. 196.

Corresponding Federal Provision: 116(6).

Tax-agreement-exempt property.

1102.5. For the purposes of paragraph *i* of section 1102.4, a property is a tax-agreement-exempt property of a person not resident in Canada, at the time of that person's disposition of the property to another person (in this section referred to as the "purchaser"), if

(a) it is, at that time, a tax-agreement-protected property, within the meaning of section 1, of the person not resident in Canada; and

(b) if the purchaser and the person not resident in Canada are related at that time, the purchaser provides notice in accordance with section 1101.2 in respect of the disposition.

History: 2009, c. 15, s. 374.

Corresponding Federal Provision: 116(6.1).

PART III

INVESTMENT INSTITUTIONS

BOOK I

INVESTMENT CORPORATIONS

Deduction of taxed capital gains.

1103. An investment corporation may, for the purpose of computing the tax contemplated in subsection 1 of section 771 for a taxation year, deduct from its taxable income for the year its taxed capital gains for the year.

History: 1972, c. 23, s. 825; 1976, c. 18, s. 17; 1994, c. 22, s. 336; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130(1).

Investment corporation.

1104. For the purposes of this Book, a corporation is an investment corporation throughout any taxation year in respect of which the expression is being applied if it complies with the following conditions:

(a) it was throughout the year a Canadian corporation that was a public corporation;

(b) not less than 80% of its property throughout the year consisted of shares, bonds, marketable securities or cash;

(c) not less than 95% of its income, determined without reference to section 295, for the year was derived from, or from dispositions of, property described in paragraph *b*;

(d) not less than 85% of its gross revenue for the year was from sources in Canada;

(e) not more than 25% of its gross revenue for the year was from interest;

(f) at no time in the year did more than 10% of its property consist of shares, bonds or other securities of any one corporation or debtor other than the State or Her Majesty in right of Canada or a province, within the meaning of section 1, other than Québec, or other than a Canadian municipality;

(g) no person would have been a specified shareholder of the corporation in the year if

i. section 21.17 were read as if "not less than 10%" were replaced by "more than 25%" and without reference to "of any other corporation that is related to the corporation",

ii. paragraph *a* of section 21.18 were read as if "with whom the taxpayer does not deal at arm's length" were replaced by "related to the taxpayer",

iii. section 21.18 were read without reference to paragraph *d* of that section, and

iv. paragraph *a* of subsection 1 of section 19 were read as follows:

"(a) an individual and

i. the individual's child, as defined in subparagraph *d* of the first paragraph of section 451, who is under 19 years of age, or

ii. the individual's spouse;" and

(h) an amount of not less than 85% of the aggregate determined under section 1105, less any dividends or interest received by it in the form of shares, bonds or other securities that had not been sold before the end of the year, was distributed to its shareholders before the end of the year and otherwise than by way of a capital gains dividend.

History: 1972, c. 23, s. 828; 1973, c. 17, s. 130; 1973, c. 18, s. 32; 1976, c. 18, s. 19; 1980, c. 13, s. 107; 1982, c. 5, s. 202; 1993, c. 16, s. 349; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1998, c. 16, s. 251; 2001, c. 7, s. 161 [amended by 2015, c. 24, s. 193]; 2017, c. 1, s. 372.

Corresponding Federal Provision: 130(3)(a)(i) to (viii).

"taxed capital gains".

1104.01. In this Book, "taxed capital gains" of a corporation for a taxation year means the amount by which its taxable capital gains for the year from the disposition of property exceed the aggregate of its allowable capital losses for the year from the disposition of property and the amount

deducted under section 729 for the purpose of computing its taxable income for the year.

History: 1994, c. 22, s. 337; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130(3)(b).

Subsidiary wholly-owned corporation.

1104.1. Where a corporation so elects in the fiscal return it is required to file under this Act for a taxation year, each property of the corporation that is a share or indebtedness of another Canadian corporation that is, at any time in the year, a subsidiary wholly-owned corporation of the corporation is deemed, for the purposes of paragraphs *b* and *f* of section 1104 not to be owned by the corporation at that time, and each property owned by the other corporation at that time is deemed, for the purposes of the said paragraphs, to be owned by the corporation at that time.

History: 1993, c. 16, s. 350; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130(4).

Computation of aggregate referred to in par. h of s. 1104.

1105. The aggregate to which paragraph *h* of section 1104 refers in respect of the corporation contemplated therein is the aggregate of the following amounts:

(a) 66 2/3% of the amount by which its taxable income for the year exceeds its taxed capital gains for the year; and

(b) the amount by which the taxable dividends received by the corporation during the year, to the extent that such dividends are deductible from its income for the year under sections 738 to 749, exceeds the amount that the corporation's non-capital losses for the year would be if the amount determined in paragraph *b* of section 28 in respect of the corporation for the year was nil.

History: 1976, c. 18, s. 20; 1982, c. 5, s. 203; 1994, c. 22, s. 338; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130(3)(a)(viii)(A) and (B).

Election in respect of dividends payable.

1106. Where at any particular time a dividend becomes payable by a corporation that is an investment corporation throughout the taxation year during which the dividend becomes payable, the corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the following rules apply:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's capital gains dividend account at that time;

(b) despite any other provision of this Act, where an amount is received by a taxpayer in a taxation year as the dividend, the amount

i. shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

ii. is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year.

History: 1972, c. 23, s. 829; 1974, c. 18, s. 40; 1976, c. 18, s. 21; 1982, c. 5, s. 204; 1988, c. 4, s. 143; 1990, c. 59, s. 356; 1994, c. 22, s. 339; 1996, c. 39, s. 262; 1997, c. 3, s. 71; 2003, c. 2, s. 288; 2017, c. 29, s. 206.

Corresponding Federal Provision: 130(2) and 131(1).

1106.0.1. (*Repealed*).

History: 2003, c. 2, s. 289; 2017, c. 29, s. 207.

1106.0.2. (*Repealed*).

History: 2003, c. 2, s. 289; 2017, c. 29, s. 207.

1106.0.3. (*Repealed*).

History: 2003, c. 2, s. 289; 2017, c. 29, s. 207.

1106.0.4. (*Repealed*).

History: 2003, c. 2, s. 289; 2017, c. 29, s. 207.

1106.0.5. (*Repealed*).

History: 2003, c. 2, s. 289; 2017, c. 29, s. 207.

Election by a restricted financial institution.

1106.1. Notwithstanding any other provision of this Act, an investment corporation that at any time would, but for this section, be a restricted financial institution is deemed not to be a restricted financial institution at that time, if before that time it has made the election prescribed in subsection 10 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Filing of documents.

An investment corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at or before the time the election was made, a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act.

History: 1990, c. 59, s. 357; 1997, c. 3, s. 71.

Corresponding Federal Provision: 131(10).

Sections do not apply.

1106.2. Division XIII of Chapter IV of Title IV of Book III of Part I and Chapters IV to VI of Title IX of that Book III do not apply to a taxpayer who holds a share (in this section referred to as the "old share") of a class of shares of the capital stock, that is recognized under securities legislation as or as part of an investment fund, of an investment corporation if the taxpayer exchanges or otherwise disposes of the old share for another share (in this

section referred to as the “new share”) of an investment corporation, unless

(a) if the exchange or disposition occurs in the course of a transaction, event or series of transactions or events described in section 541 or in subsections 1 and 2 of section 544,

i. all shares of the class (determined without reference to section 1.3) that includes the old share at the time of the exchange or disposition are exchanged for shares of the class that includes the new share,

ii. the old share and the new share derive their value in the same proportion from the same property or group of properties, and

iii. the transaction, event or series of transactions or events was undertaken solely for bona fide purposes and not to cause this section to apply; or

(b) if the old share and the new share are shares of the same class (determined without reference to section 1.3) of shares of the same investment corporation,

i. the old share and the new share derive their value in the same proportion from the same property or group of properties held by the corporation that is allocated to that class, and

ii. that class is recognized under securities legislation as or as part of a single investment fund.

History: 2019, c. 14, s. 439.

Corresponding Federal Provision: 130(2) before (a) and 131(4.1).

Application of Part I.

1107. Unless otherwise provided in this Book, Part I applies, with the necessary modifications, to an investment corporation.

History: 1972, c. 23, s. 830; 1995, c. 63, s. 261; 1997, c. 3, s. 71.

BOOK II MORTGAGE INVESTMENT CORPORATIONS

Definitions:

1108. In this Book,

“*mortgage investment corporation*”;

“mortgage investment corporation” has the meaning assigned by the regulations;

“*taxed capital gains*”.

“taxed capital gains” has the meaning assigned by section 1104.0.1.

History: 1974, c. 18, s. 41; 1985, c. 25, s. 162; 1994, c. 22, s. 340; 1995, c. 49, s. 234; 1996, c. 39, s. 263; 1997, c. 3, s. 65.

Corresponding Federal Provision: 130.1(6) and (9) “taxed capital gains”.

Deduction of taxable dividends.

1109. A mortgage investment corporation may deduct in computing its income the taxable dividends, other than capital gains dividends, which it pays during the year or within the 90 days following the end of such year.

Restriction.

However, such deduction may be made only to the extent that such dividends were not deductible by the corporation in computing its income for the preceding year.

History: 1974, c. 18, s. 41; 1978, c. 26, s. 212; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130.1(1)(a)(i).

Deduction of capital gains dividends.

1110. A mortgage investment corporation may also deduct in computing its income, subject to the second paragraph, 1/2 of the capital gains dividends which it pays during the period beginning 91 days after the commencement of the year and ending 90 days after the end of such year.

Transitional rules.

However, where the year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to the fraction “1/2” in the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation for the year.

History: 1974, c. 18, s. 41; 1990, c. 59, s. 358; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2003, c. 2, s. 290.

Corresponding Federal Provision: 130.1(1)(a)(ii).

Deduction prohibited.

1111. A mortgage investment corporation cannot make any deduction under sections 738 to 745.

History: 1974, c. 18, s. 41; 1975, c. 22 s. 250; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130.1(1)(b).

Amount deemed received as interest on bond.

1112. For the purposes of this Act, any amount received by a shareholder of a mortgage investment corporation as a taxable dividend other than a capital gains dividend, is deemed to have been received as interest on a bond issued by the corporation after 1971, where such dividend has been paid in a taxation year during the whole of which the corporation was a mortgage investment corporation or within the 90 days following the end of such year.

History: 1974, c. 18, s. 41; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130.1(2) and (3).

Election in respect of dividends paid.

1113. Where a dividend is paid at any particular time during the period referred to in the first paragraph of section 1110, the mortgage investment corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the following rules apply:

(a) the dividend is deemed to be a capital gains dividend to the extent that, subject to the second paragraph, it does not exceed the amount by which twice the taxed capital gains of the corporation for the year exceeds the aggregate of all dividends, and parts of dividends, paid by the corporation during the period and before the particular time that are deemed under this paragraph to be capital gains dividends; and

(b) despite any other provision of this Act, where an amount is received by a taxpayer in a taxation year as the dividend, the amount

i. shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

ii. is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year.

History: 1974, c. 18, s. 41; 1986, c. 19, s. 204; 1987, c. 67, s. 198; 1990, c. 59, s. 359; 1994, c. 22, s. 341; 1996, c. 39, s. 264; 1997, c. 3, s. 71; 2003, c. 2, s. 291; 2017, c. 29, s. 208.

Corresponding Federal Provision: 130.1(4)(a)(i) and (b).

1113.1. (Repealed).

History: 2003, c. 2, s. 292; 2017, c. 29, s. 209.

1113.2. (Repealed).

History: 2003, c. 2, s. 292; 2017, c. 29, s. 209.

1113.3. (Repealed).

History: 2003, c. 2, s. 292; 2017, c. 29, s. 209.

1113.4. (Repealed).

History: 2003, c. 2, s. 292; 2017, c. 29, s. 209.

Public corporation.

1114. For the purposes of this Act, a mortgage investment corporation is deemed to be a public corporation.

History: 1974, c. 18, s. 41; 1997, c. 3, s. 71.

Corresponding Federal Provision: 130.1(5).

Application of Part I.

1115. Unless otherwise provided in this Book, Part I applies, with the necessary modifications, to a mortgage investment corporation.

History: 1974, c. 18, s. 41; 1995, c. 63, s. 261; 1997, c. 3, s. 71.

BOOK III**MUTUAL FUND CORPORATIONS****Election in respect of dividends payable.**

1116. Where at any particular time a dividend becomes payable by a corporation that is a mutual fund corporation throughout the taxation year during which the dividend becomes payable, the corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the following rules apply:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's capital gains dividend account at that time;

(b) despite any other provision of this Act, where an amount is received by a taxpayer in a taxation year as the dividend, the amount

i. shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

ii. is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year.

History: 1972, c. 23, s. 831; 1974, c. 18, s. 42; 1976, c. 18, s. 22; 1982, c. 5, s. 205; 1987, c. 67, s. 199; 1990, c. 59, s. 360; 1994, c. 22, s. 342; 1996, c. 39, s. 266; 1997, c. 3, s. 71; 2003, c. 2, s. 293; 2017, c. 29, s. 210.

Corresponding Federal Provision: 131(1).

1116.1. (Repealed).

History: 2003, c. 2, s. 294; 2017, c. 29, s. 211.

1116.2. (Repealed).

History: 2003, c. 2, s. 294; 2017, c. 29, s. 211.

1116.3. (Repealed).

History: 2003, c. 2, s. 294; 2017, c. 29, s. 211.

1116.4. (Repealed).

History: 2003, c. 2, s. 294; 2017, c. 29, s. 211.

1116.5. (Repealed).

History: 2003, c. 2, s. 294; 2017, c. 29, s. 211.

Mutual fund corporation.

1117. Subject to section 1117.1, a corporation is a mutual fund corporation at any time in a taxation year if, at that time, it is a prescribed corporation or:

(a) it is a Canadian corporation which is a public corporation;

(b) its only undertaking is

i. the investing of its funds in property, other than immovable property or a right in immovable property,

ii. the acquiring, holding, maintaining, improving, leasing or managing of any immovable property, or any right in immovable property, that is capital property of the corporation, or

iii. any combination of the activities described in subparagraphs i and ii;

(c) the issued shares of its capital stock include, for a value at least equal to 95% of the fair market value of all the issued shares, without regard to the voting rights:

i. shares including conditions requiring the corporation to redeem, upon application of the holder and at the price fixed and payable according to the conditions, the said shares, in whole or in part, if they are fully paid-up; or

ii. shares meeting the conditions prescribed as to their redemption.

History: 1972, c. 23, s. 832; 1993, c. 16, s. 351; 1996, c. 39, s. 267; 1997, c. 3, s. 71; 2001, c. 7, s. 162; 2020, c. 16, s. 182.

Corresponding Federal Provision: 131(8).

Corporation deemed to be a mutual fund corporation.

1117.0.1. A corporation is deemed to be a mutual fund corporation from the date it was incorporated until 31 December 2017 or, if it is earlier, the date the corporation meets the conditions to qualify as a mutual fund corporation under section 1117, if it has made a valid election under paragraph *d* of subsection 8.01 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2019, c. 14, s. 440.

Corresponding Federal Provision: 131(8.01).

Special rules for persons not resident in Canada.

1117.1. Where, at any time, it may reasonably be considered that a corporation, having regard to all the circumstances, including the terms and conditions of the shares of the capital stock of the corporation, was established or exists primarily for the benefit of persons not resident in Canada, the corporation is deemed not to be a mutual fund corporation after that time unless

(a) throughout the period that begins on the later of 21 February 1990 and the day of its incorporation and ends at that time, all or substantially all of its property consisted of property other than property that would be taxable Canadian property if section 1094 were read without reference to paragraph *b* thereof; or

(b) the corporation has not issued a share, other than a share issued as a stock dividend, of its capital stock after 20 February 1990 and before that time to a person that, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the share was issued to that person pursuant to an agreement in writing entered into before 21 February 1990.

History: 1993, c. 16, s. 352; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2004, c. 8, s. 196.

Corresponding Federal Provision: 131(8.1).

Deemed dividends on increase in paid-up capital.

1118. The presumption provided in sections 504 to 510 in respect of the payment or receipt of a dividend does not apply if the corporation, at the time where such presumption would apply, is a mutual fund corporation.

History: 1972, c. 23, s. 833; 1975, c. 22, s. 251; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: 131(4).

Election by a mutual fund corporation.

1118.1. Notwithstanding any other provision of this Act, a mutual fund corporation that at any time would, but for this section, be a restricted financial institution is deemed not to be a restricted financial institution at that time, if before that time it has made the election contemplated in subsection 10 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Filing of documents.

A mutual fund corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at or before the time the election was made, a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act.

History: 1990, c. 59, s. 361; 1996, c. 39, s. 273.

Corresponding Federal Provision: 131(10).

Sections do not apply.

1118.2. Division XIII of Chapter IV of Title IV of Book III of Part I and Chapters IV to VI of Title IX of that Book III do not apply to a taxpayer who holds a share (in this section referred to as the “old share”) of a class of shares of the capital stock, that is recognized under securities legislation as or as part of an investment fund, of a mutual fund corporation if the taxpayer exchanges or otherwise disposes of the old share for another share (in this section referred to as the “new share”) of a mutual fund corporation, unless

(a) if the exchange or disposition occurs in the course of a transaction, event or series of transactions or events described in section 541 or in subsections 1 and 2 of section 544,

i. all shares of the class (determined without reference to section 1.3) that includes the old share at the time of the exchange or disposition are exchanged for shares of the class that includes the new share,

ii. the old share and the new share derive their value in the same proportion from the same property or group of properties, and

iii. the transaction, event or series of transactions or events was undertaken solely for bona fide purposes and not to cause this section to apply;

(b) if the old share and the new share are shares of the same class (determined without reference to section 1.3) of shares of the same mutual fund corporation,

i. the old share and the new share derive their value in the same proportion from the same property or group of properties held by the corporation that is allocated to that class, and

ii. that class is recognized under securities legislation as or as part of a single investment fund; or

(c) the exchange is made as a consequence of the application of section 11.1 of the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) in respect of the taxpayer.

History: 2019, c. 14, s. 441.

Corresponding Federal Provision: 131(4.1).

Application of s. 1103 and Part I.

1119. Section 1103 applies, with the necessary modifications, in respect of a taxation year, to a corporation which was a mutual fund corporation throughout the year and, unless otherwise provided in this Book, Part I applies, with the necessary modifications, to a mutual fund corporation.

History: 1972, c. 23, s. 834; 1976, c. 18, s. 23; 1995, c. 63, s. 229; 1996, c. 39, s. 273; 1997, c. 3, s. 71.

BOOK IV MUTUAL FUND TRUST

Mutual fund trust.

1120. Subject to section 1120.1, a trust is a mutual fund trust at any time if, at that time,

(a) it was a unit trust resident in Canada;

(b) its only undertaking was

i. the investing of its funds in property, other than immovable property or an interest in immovable property,

ii. the acquiring, holding, maintaining, improving, leasing or managing of any immovable property, or interest in immovable property, that is capital property of the trust, or

iii. any combination of the activities described in subparagraphs i and ii; and

(c) it complied with the prescribed conditions.

History: 1972, c. 23, s. 835; 1973, c. 17, s. 131; 1993, c. 16, s. 353; 1996, c. 39, s. 273; 1997, c. 31, s. 131; 2001, c. 7, s. 163; 2009, c. 5, s. 506.

Corresponding Federal Provision: 132(6).

Election to be mutual fund trust.

1120.0.1. If a trust becomes a mutual fund trust at any particular time before the 91st day after the end of its first taxation year, and the trust makes a valid election under subsection 6.1 of section 132 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006, the trust is deemed to have been a mutual fund trust from the beginning of that year until the particular time.

Additional rules.

Chapter V.2 of Title II of Book I of Part I applies in relation to an election made under subsection 6.1 of section 132 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2001, c. 7, s. 164; 2001, c. 53, s. 250; 2009, c. 5, s. 507.

Corresponding Federal Provision: 132(6.1).

Mutual fund trust.

1120.0.2. A trust is deemed to be a mutual fund trust throughout a calendar year where

(a) at any time in the year, the trust would, but for this section, have ceased to be a mutual fund trust

i. because the condition described in paragraph *a* of section 649 ceased to be satisfied,

ii. because of the application of paragraph *c* of section 1120, or

iii. because the trust ceased to exist;

(b) the trust was a mutual fund trust at the beginning of the year; and

(c) the trust would, throughout the portion of the year throughout which it was in existence, have been a mutual fund trust if

i. in the case where the condition described in paragraph *a* of section 649 was satisfied at any time in the year, that condition was satisfied throughout the year,

ii. section 1120 were read without reference to paragraph *c* thereof, and

iii. this Book were read without reference to this section.

History: 2003, c. 2, s. 295.

Corresponding Federal Provision: 132(6.2).

Special rules for persons not resident in Canada.

1120.1. Where, at any time, it may reasonably be considered that a trust, having regard to all the circumstances, including the terms and conditions of the units of the trust, was established or exists primarily for the benefit of persons not resident in Canada, the trust is deemed not to be a mutual fund trust after that time unless

(a) at that time, all or substantially all of its property is property other than property that would be taxable Canadian property of the trust if section 1094 was read without reference to its paragraph *b*; or

(b) the trust has not issued any units, other than units referred to in the second paragraph, after 20 February 1990 and before that time to a person who, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the units were issued to that person under an agreement in writing entered into before 21 February 1990.

Units excluded.

The units to which subparagraph *b* of the first paragraph refers are the following:

(a) a unit issued to a person as a payment of an amount out of the trust's income determined before the application of sections 657 and 657.1, or out of the trust's capital gains; or

(b) a unit issued to a person in consideration for the person's right to enforce payment of an amount out of the trust's income or capital gains referred to in subparagraph *a*.

History: 1993, c. 16, s. 354; 1996, c. 39, s. 273; 2004, c. 8, s. 197; 2009, c. 5, s. 508.

Corresponding Federal Provision: 132(7).

Application of Part I.

1121. Part I applies to a mutual fund trust except that in section 667 the expression "dividend other than a taxable dividend" must be replaced by the expression "capital dividend".

History: 1972, c. 23, s. 836; 1996, c. 39, s. 273.

Corresponding Federal Provision: 132(3).

Amounts designated by a mutual fund trust.

1121.1. For the purposes of Part I, where a trust in its fiscal return filed under this Part for a taxation year throughout which it was a mutual fund trust designates a particular amount, established for the year under section 1121.2, in

respect of a particular unit of the trust owned by a taxpayer at any time in the year, the following rules apply:

(a) the particular amount shall, subject to section 1121.4, be deductible in computing the income of the trust for the year;

(b) the particular amount shall be included in computing the income of the taxpayer for his taxation year in which the year of the trust ends, except that where the particular unit was owned by two or more taxpayers during the year, such part of the particular amount as the trust may determine shall, if the aggregate of all such parts is equal to that particular amount, be included in computing the income of each such taxpayer for his taxation year in which the year of the trust ends.

History: 1990, c. 59, s. 362; 1996, c. 39, s. 273.

Corresponding Federal Provision: 132.1(1) before (a), (c) and (d).

Computation of the particular amount.

1121.2. The particular amount referred to in section 1121.1 for a taxation year of a mutual fund trust in respect of a particular unit thereof is equal to the aggregate of

(a) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount by which the aggregate of all amounts determined by it under section 670, as that section read before being repealed, for its taxation years commencing before 1 January 1988 exceeds the aggregate of those determined by it under this paragraph for the year or a preceding taxation year in respect of all its units, except the amount determined by it in respect of the particular unit for the year under this paragraph;

(b) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount by which the aggregate of all amounts described in subparagraph *i.1* of paragraph *n* of section 257 that became payable by the trust after 31 December 1987 and before the year exceeds the aggregate of those determined by it under this paragraph for the year or a preceding taxation year in respect of all its units, except the amount determined by it in respect of the particular unit for the year under this paragraph.

History: 1990, c. 59, s. 362; 1996, c. 39, s. 273; 1997, c. 31, s. 132.

Corresponding Federal Provision: 132.1(1)(a) and (b).

Adjusted cost base of a unit in a mutual fund trust.

1121.3. A taxpayer shall add, in computing, at any time in his taxation year, the adjusted cost base to him of a unit in a mutual fund trust, that part of the amount included in computing his income under section 1121.1 that is reasonably attributable to the amount determined under paragraph *b* of section 1121.2 by the trust for its taxation year ending in the year in respect of the unit owned by the taxpayer.

History: 1990, c. 59, s. 362; 1996, c. 39, s. 273.

Corresponding Federal Provision: 132.1(2).

Limitation on current year deduction.

1121.4. The aggregate of amounts deductible under paragraph *a* of section 1121.1 in computing the income of a trust for a taxation year shall not exceed the amount that would be the income of the trust for the year if no deductions were allowed under paragraph *a* of section 657 and section 1121.1.

History: 1990, c. 59, s. 362.

Corresponding Federal Provision: 132.1(3).

Carry-over of excess.

1121.5. For the purposes of paragraph *a* of section 1121.1 and section 1121.4, the amount by which the aggregate of all amounts each of which is an amount designated by a trust for a particular taxation year under section 1121.1 exceeds the amount deductible under section 1121.1 in computing its income for the particular year is deemed to be an amount designated by the trust under section 1121.1 for its taxation year following the particular year.

History: 1990, c. 59, s. 362.

Corresponding Federal Provision: 132.1(4).

Anti-avoidance rule.

1121.6. For the purposes of paragraph *a* of section 1121.1, a particular amount designated under the said section for a taxation year of a mutual fund trust in respect of a unit of the trust owned at any time in the year by a taxpayer who was a person exempt from tax under this Part by reason of Book VIII of Part I shall have no effect where it is reasonable to conclude that an amount determined by the trust under paragraph *a* or *b* of section 1121.2 for the year in respect of the unit or, in respect of the amount designated, under paragraph *b* of section 1121.1 differs from the amount that would have been so determined for the year in respect of the taxpayer had he not been such a person.

History: 1990, c. 59, s. 362; 1996, c. 39, s. 273.

Corresponding Federal Provision: 132.1(5).

Taxation year of mutual fund trust.

1121.7. Despite any other provision of this Act and subject to the second paragraph, if a trust has made a valid election under subsection 1 of section 132.11 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than an election in respect of which the rules set out in subsection 1.1 of section 132.11 of that Act apply as a result of an application made by the trust under that subsection 1.1 and granted by the Minister of National Revenue before 20 December 2006, the following rules apply:

(a) if a taxation year of the trust (determined for the purposes of the Income Tax Act) ends, because of paragraph *a* of subsection 1 of section 132.11 of that Act, on 15 December of a particular calendar year, the trust's taxation

year (determined for the purposes of this Act) that includes that date is deemed to end on that date; and

(b) if a taxation year of the trust (determined for the purposes of the Income Tax Act) ends, because of paragraph *a* of subsection 1 of section 132.11 of that Act, on 15 December of a particular calendar year, each of its taxation years (determined for the purposes of this Act) that end after that date is deemed, subject to section 1121.7.1, to be the period that begins on 16 December of a calendar year and ends on 15 December of the following calendar year or at such earlier time as is determined under paragraph *a* or *b* of section 6.2, paragraph *a.1* of section 785.1, paragraph *b* of section 785.5 or paragraph *a.1* of section 851.22.23.

Special rules.

If, because of a particular election made under subsection 1 of section 132.11 of the Income Tax Act, a particular taxation year of a trust (determined for the purposes of that Act) ended on 15 December 2006 and if a taxation year of the trust (determined for the purposes of this Act) ended on 31 December 2005, the following rules apply:

(a) if paragraph *a* of subsection 1.1 of section 132.11 of that Act does not apply in respect of the taxation year of the trust that follows the particular taxation year,

i. subparagraph *b* of the first paragraph does not apply in respect of a taxation year of the trust (determined for the purposes of this Act) that began before 16 December 2007, and

ii. the taxation year of the trust (determined for the purposes of this Act) that includes 15 December 2007 is deemed to end on that date and a new taxation year of the trust (determined for the purposes of this Act) is deemed to begin immediately after that date; and

(b) if paragraph *a* of subsection 1.1 of section 132.11 of that Act applies in respect of the taxation year of the trust that follows the particular taxation year, the first paragraph applies as if the particular election had not been made.

Additional rules.

Chapter V.2 of Title II of Book I of Part I applies in relation to an election made under subsection 1 of section 132.11 of the Income Tax Act.

History: 2001, c. 53, s. 251; 2004, c. 8, s. 198; 2009, c. 5, s. 509; 2017, c. 29, s. 212.

Corresponding Federal Provision: 132.11(1).

Revocation of election.

1121.7.1. If, for the purposes of this Act, a particular taxation year of a trust ends on 15 December of a calendar year because of an election referred to in section 1121.7 or because of the second paragraph of that section, if the trust applies to the Minister of National Revenue, in accordance

with subsection 1.1 of section 132.11 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to have that subsection 1.1 apply in relation to its taxation years that follow the particular year, and if the Minister of National Revenue grants the application after 19 December 2006, the following rules apply:

(a) the trust's taxation year following the particular year is deemed to begin immediately after the end of the particular year and end at the end of that calendar year; and

(b) each subsequent taxation year of the trust is deemed to be determined as if that election had not been made.

Additional rules.

Chapter V.2 of Title II of Book I of Part I applies in relation to an application made under subsection 1.1 of section 132.11 of the Income Tax Act and granted by the Minister of National Revenue.

History: 2004, c. 8, s. 199; 2009, c. 5, s. 510.

Corresponding Federal Provision: 132.11(1.1).

Trust's share in the income or loss of a partnership.

1121.8. Where a trust is a member of a partnership a fiscal period of a business or property of which ends in a calendar year after 15 December of the year and a particular taxation year of the trust ends on 15 December of the year because of section 1121.7, each amount otherwise determined under paragraph *f* or *g* of section 600 to be the trust's income or loss for a taxation year subsequent to that year is deemed to be the trust's income or loss determined under that paragraph for the particular year and not for the subsequent year.

History: 2001, c. 53, s. 251.

Corresponding Federal Provision: 132.11(2).

Income or loss from another trust.

1121.9. Where a particular trust is a beneficiary under another trust a taxation year of which, in this section referred to as the "other year", ends in a calendar year after 15 December of the year and a particular taxation year of the particular trust ends on 15 December of the year because of section 1121.7, each amount otherwise determined or designated under section 663, 666, 668, 669.3 or 671 for the other year that would otherwise be included, or taken into account, in computing the income of the particular trust for a taxation year subsequent to that year shall be included, or taken into account, in computing the particular trust's income for the particular year and not be included, or taken into account, in computing the particular trust's income for the subsequent year.

History: 2001, c. 53, s. 251.

Corresponding Federal Provision: 132.11(3).

Amounts paid or payable to beneficiaries.

1121.10. For the purposes of subparagraph *e* of the second paragraph of section 248, section 306, paragraph *a* of section 657 and sections 657.1, 663, 1121.11 and 1121.12 and despite section 652, each amount that is paid, or that becomes payable, by a trust to a beneficiary after the end of a particular taxation year of the trust that ends on 15 December of a calendar year because of section 1121.7 and before the end of that calendar year is deemed to have been paid or to have become payable, as the case may be, to the beneficiary at the end of the particular taxation year.

History: 2001, c. 53, s. 251; 2015, c. 36, s. 157.

Corresponding Federal Provision: 132.11(4).

Special rules where the beneficiary changes status.

1121.11. Where an amount is deemed by section 1121.10 to have been paid or to have become payable on 15 December of a calendar year by a trust to a beneficiary who was not a beneficiary under the trust at that time, the following rules apply:

(a) notwithstanding any other provision of this Act, where the beneficiary did not exist at that time, except for the purposes of this paragraph, the first taxation year of the beneficiary is deemed to include the period that begins at that time and ends immediately before the beginning of the first taxation year of the beneficiary;

(b) the beneficiary is deemed to exist throughout the period described in paragraph *a*; and

(c) where the beneficiary was not a beneficiary under the trust at that time, the beneficiary is deemed to have been a beneficiary under the trust at that time.

History: 2001, c. 53, s. 251.

Corresponding Federal Provision: 132.11(5).

Additional income of the trust.

1121.12. Where a particular amount is designated under this section by a trust in its fiscal return for a particular taxation year that ends on 15 December because of section 1121.7 or throughout which the trust was a mutual fund trust and the trust does not designate an amount in accordance with the first paragraph of sections 663.1 and 663.2 for the particular year, the following rules apply:

(a) the particular amount shall be added in computing the trust's income for the particular year; and

(b) for the purposes of paragraph *a* of section 657 and sections 657.1 and 663, each portion of the particular amount that is allocated under this paragraph to a beneficiary under the trust in the trust's fiscal return for the particular year in respect of an amount paid or payable to the beneficiary in the particular year shall be considered to be additional income of the trust for the particular year, determined without reference

to paragraph *a* of section 657 and section 657.1, that was paid or payable, as the case may be, to the beneficiary at the end of the particular year;

(*c*) (*paragraph repealed*).

History: 2001, c. 53, s. 251; 2004, c. 8, s. 200; 2006, c. 13, s. 208.

Corresponding Federal Provision: 132.11(6).

Deduction.

1121.13. Subject to section 1121.14, the lesser of the amount designated under section 1121.12 by a trust for a taxation year and the aggregate of all amounts each of which is allocated by the trust under paragraph *b* of section 1121.12 in respect of the year shall be deducted in computing the trust's income for the subsequent taxation year.

History: 2001, c. 53, s. 251.

Corresponding Federal Provision: 132.11(7).

Anti-avoidance rule.

1121.14. Section 1121.13 does not apply in computing the income of a trust for a taxation year where it is reasonable to consider that the designation under section 1121.12 for the preceding taxation year was part of a series of transactions or events that includes a change in the composition of beneficiaries under the trust.

History: 2001, c. 53, s. 251.

Corresponding Federal Provision: 132.11(8).

BOOK V

NON-RESIDENT OWNED INVESTMENT CORPORATIONS

Non-resident owned investment corporation.

1122. A non-resident owned investment corporation is a corporation incorporated in Canada which, throughout the period comprised between 18 June 1971 or the date of its incorporation, if the latter date is later than the first, and the last day of the taxation year for which the expression is relevant, has met the following requirements:

(*a*) the aggregate of its issued shares, bonds, debentures and other long-term liabilities

i. belonged to persons not resident in Canada other than a foreign affiliate of a taxpayer resident in Canada,

ii. belonged to a trustee who held them for a beneficiary not resident in Canada or for a child to be born to such beneficiary, or

iii. belonged to another non-resident owned investment corporation whose issued shares, bonds, debentures and other long-term liabilities were those described in subparagraphs i and ii or belonged to two or more corporations of that kind;

(*b*) its income, for each taxation year of the period, was derived from

i. the ownership of or trading in bonds, shares, debentures, bills, notes, hypothecary claims, mortgages or other similar property, or an interest therein,

ii. lending money, with or without security,

iii. rents, the leasing of movable property, fees or remuneration from charter-parties, annuities, royalties, interest or dividends,

iv. a succession or a trust, or

v. the disposition of capital property;

(*c*) not more than 10 per cent of its gross revenue, for each taxation year of the period, was derived from rents, the rental of movable property, fees or remuneration from charter-parties; and

(*d*) its principal business did not consist, for each taxation year of the period, in lending money or trading in the property contemplated in subparagraph i of paragraph *b* or of an interest therein.

History: 1972, c. 23, s. 837; 1996, c. 39, s. 268; 1997, c. 3, s. 71; 1997, c. 14, s. 262; 1998, c. 16, s. 251; 2005, c. 1, s. 281.

Corresponding Federal Provision: 133(8) "non-resident-owned investment corporation" (a) to (d).

Loss of status.

1122.1. Notwithstanding section 1122, a corporation is not a non-resident-owned investment corporation in any taxation year that ends after the earlier of,

(*a*) the first time after 27 February 2000 at which the corporation effects an increase in capital; and

(*b*) the end of the corporation's last taxation year that begins before 1 January 2003.

Interpretation.

For the purposes of subparagraph *a* of the first paragraph, an increase in capital in respect of a corporation means a transaction, other than a transaction carried out pursuant to an agreement in writing made before 28 February 2000 and referred to in this paragraph as a "specified transaction", in the course of which the corporation issues additional shares of its capital stock or incurs indebtedness, if the transaction has the effect of increasing the aggregate of the corporation's liabilities and the fair market value of all the shares of its capital stock to an amount that is substantially greater than that aggregate would have been on 27 February 2000 if all specified transactions had been carried out before that date.

History: 2004, c. 8, s. 201.

Corresponding Federal Provision: 133(8)
 “non-resident-owned investment corporation” after (d) and
 “increase in capital”.

Qualification as a non-resident owned investment corporation.

1123. A non-resident owned investment corporation qualifies as such for a taxation year only if it meets the prescribed conditions.

History: 1972, c. 23, s. 838; 1976, c. 18, s. 24; 1997, c. 3, s. 71.

Corresponding Federal Provision: 133(8)
 “non-resident-owned investment corporation” (e) and (f).

New corporation through amalgamation.

1124. Notwithstanding section 1122, a new corporation, within the meaning given to it by section 544, formed by the amalgamation after 18 June 1971, of two or more replaced corporations shall qualify as a corporation contemplated in section 1122 only if the replaced corporations were themselves non-resident owned investment corporations immediately before the amalgamation.

History: 1972, c. 23, s. 839; 1997, c. 3, s. 71.

Corresponding Federal Provision: 133(8)
 “non-resident-owned investment corporation” (g).

Corporation deemed not to be a Canadian or private corporation.

1125. Except for the purposes of sections 544 and 566 to 568, a non-resident owned investment corporation which would, but for this section, be a Canadian corporation, a taxable Canadian corporation or a private corporation, is nevertheless deemed not to be such a corporation.

History: 1972, c. 23, s. 840; 1973, c. 17, s. 132; 1978, c. 26, s. 213; 1986, c. 19, s. 205; 1997, c. 3, s. 71.

Corresponding Federal Provision: 134.

Deemed end of taxation year in case of revocation.

1125.1. If a non-resident-owned investment corporation makes, at a particular time, a valid election for the purposes of subsection 1 of section 134.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a new taxation year of the corporation is deemed to begin at that time.

Requirements for the validity of the election.

Where an election to which the first paragraph refers was made, the prescribed form, together with a copy of every document transmitted to the Minister of Revenue of Canada in connection with that election, shall be transmitted to the Minister.

History: 2004, c. 8, s. 202; 2009, c. 5, s. 511.

Corresponding Federal Provision: 134.2 (part).

Income of a non-resident owned investment corporation having an establishment in Québec.

1126. Except for the purposes of section 1122, the income for a taxation year of a non-resident owned investment corporation having an establishment in Québec at any time during the year must be computed by taking into account only the taxable capital gains and allowable capital losses of the corporation for the year resulting from the disposition of taxable Canadian property within the meaning of section 1095.

History: 1976, c. 18, s. 25; 1997, c. 3, s. 71; 2004, c. 8, s. 203.

Corresponding Federal Provision: 133(1)(c).

Taxable income of corporation contemplated in s. 1126.

1127. The taxable income for a taxation year of the corporation contemplated in section 1126 is its income for the year determined in accordance with the said section from which the corporation may deduct no amount other than that prescribed for the year under section 729 in respect of the disposition of property contemplated in section 1126.

History: 1976, c. 18, s. 25; 1985, c. 25, s. 163; 1997, c. 3, s. 71.

Non-resident owned investment corporation having no establishment in Canada.

1128. A non-resident owned investment corporation which does not have, at any time in a taxation year, an establishment in Canada and which disposes of a taxable Québec property within the meaning of paragraphs *a* and *b* of section 1094 must pay tax for the year at the rate established in subsection 1 of section 771 on the amount by which its taxable capital gains for the year resulting from the disposition of such property exceed the aggregate of its allowable capital losses for the year resulting from the disposition of such property and the net capital losses incurred by it in respect of the disposition of such property during the preceding taxation years and the three taxation years following the taxation year.

Limitation of tax payable.

However, such tax shall not exceed that which the corporation would have to pay for the year if the expression “taxable Québec property within the meaning of paragraphs *a* and *b* of section 1094” contained in the first paragraph were replaced by the expression “taxable Canadian property within the meaning of section 1095” to the extent that such section refers to paragraphs *a* and *b* of section 1094.

History: 1976, c. 18, s. 25; 1987, c. 21, s. 86; 1991, c. 8, s. 94; 1992, c. 1, s. 203; 1997, c. 3, s. 71; 2004, c. 8, s. 204.

Application of Part I.

1129. Except where otherwise provided in this Book, Part I applies, with the necessary modifications, to a non-resident owned investment corporation.

History: 1972, c. 23, s. 842; 1976, c. 18, s. 27; 1995, c. 63, s. 261; 1997, c. 3, s. 71.

PART III.0.0.1**RULES AND DEFINITIONS APPLICABLE TO CERTAIN SPECIAL TAXES****Definitions.**

1129.0.0.1. In Parts III.0.1, III.1 to III.1.0.5, III.1.1, III.1.1.2, III.1.1.3, III.1.1.7, III.10 and III.10.1 to III.10.2, “government assistance” and “non-government assistance” have the meaning assigned by the first paragraph of section 1029.6.0.0.1.

Exception.

However, an amount of government assistance or non-government assistance referred to in any of Parts III.0.1, III.1 to III.1.0.5, III.1.1, III.1.1.2, III.1.1.3, III.1.1.7, III.10 and III.10.1 to III.10.2, does not include an amount that, in accordance with the second paragraph of section 1029.6.0.0.1, is not government assistance or non-government assistance, as the case may be, for the purposes of the division of Chapter III.1 of Title III of Book IX of Part I to which that Part relates.

Definitions:

In this Part and in Parts III.0.1 to III.2.8, III.6.3 to III.6.6, III.7.1 to III.13 and III.15 to III.16,

“filing-due date”;

“filing-due date” has the meaning assigned by section 1;

“fiscal period”;

“fiscal period” has the meaning assigned by Part I;

“individual”;

“individual” has the meaning assigned by section 1;

“person”;

“person” has the meaning assigned by section 1;

“taxation year”;

“taxation year” has the meaning assigned by Part I;

“taxpayer”.

“taxpayer” has the meaning assigned by section 1.

History: 2001, c. 51, s. 204; 2002, c. 9, s. 121; 2002, c. 40, s. 232; 2007, c. 12, s. 223; 2009, c. 5, s. 512; 2010, c. 25, s. 197; 2013, c. 10, s. 153; 2015, c. 21, s. 504; 2017, c. 1, s. 373.

Benefit or advantage obtained late.

1129.0.0.2. If, at a particular time after 21 April 2005, a person or partnership has obtained a benefit or advantage that, for the purpose of computing an amount that a taxpayer

is deemed to have paid to the Minister for any given taxation year under a particular provision of Chapter III.1 of Title III of Book IX of Part I other than a provision of any of Divisions II.6 to II.6.0.0.5 of that chapter, or deemed to have overpaid to the Minister in relation to any given taxation year, under section 34.1.9 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5), would have been taken into account in computing a cost, an expenditure or expenses, or the taxpayer’s share of a cost, an expenditure or expenses, if the person or partnership had obtained it, had been entitled to obtain it or could reasonably have expected to obtain it on or before the taxpayer’s filing-due date for the given taxation year or on or before the day that is six months after the end of the fiscal period of a particular partnership of which the taxpayer is a member that ends in the given taxation year, the benefit or advantage is, for the purposes of the Part among Parts III.0.1 to III.0.3, III.1.0.6 to III.1.7, III.7.1 to III.10.10 and III.12.1 that relates to the particular provision,

(a) if the cost, expenditure or expenses were incurred by the taxpayer, deemed to be an amount relating to the cost, expenditure or expenses that is paid to the taxpayer at that time;

(b) if the cost, expenditure or expenses were incurred by the particular partnership, deemed to be

i. an amount relating to the cost, expenditure or expenses that is paid to the particular partnership at that time, when the benefit or advantage was obtained by a partnership or by a person other than a person referred to in subparagraph ii, or

ii. an amount relating to the cost, expenditure or expenses or relating to the taxpayer’s share of the cost, expenditure or expenses that is paid to the taxpayer at that time, when the benefit or advantage was obtained by the taxpayer or by a person with whom the taxpayer does not deal at arm’s length; and

(c) if the cost, expenditure or expenses were incurred by any corporation other than the taxpayer, deemed to be an amount relating to the cost, expenditure or expenses that is paid to the corporation at that time.

Exceptions.

However, when the first paragraph applies to any of the Parts mentioned in the following subparagraphs, it is to be read as if

(a) in the case of Part III.0.1, the portion before subparagraph *a* was read without reference to “or on or before the day that is six months after the end of the fiscal period of a particular partnership of which the taxpayer is a member that ends in the given taxation year”;

(b) in the case of any of Parts III.0.1, III.7.1 and III.10.2, subparagraph *b* was replaced by the following subparagraph:

“(b) if the cost, expenditure or expenses were incurred by the particular partnership, deemed to be an amount relating to the cost, expenditure or expenses that is paid to the particular partnership at that time; and”;

(c) in the case of Part III.10.2, subparagraph *c* was replaced by the following subparagraph:

“(c) if the cost, expenditure or expenses were incurred by a person other than the taxpayer or by a partnership other than the particular partnership, deemed to be an amount relating to the cost, expenditure or expenses that is paid to the person or partnership at that time.”

History: 2007, c. 12, s. 224.

Benefit or advantage obtained late in respect of an expenditure relating to a credit in the cultural sector.

1129.0.0.3. If, at a particular time after 21 April 2005, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage that, for the purpose of computing an amount that a taxpayer is deemed to have paid to the Minister for any given taxation year under a particular provision of any of Divisions II.6 to II.6.0.0.5 of Chapter III.1 of Title III of Book IX of Part I, would have been taken into account in computing an expenditure or expenses if the person or partnership had obtained it, had been entitled to obtain it or could reasonably have expected to obtain it on or before the taxpayer’s filing-due date for the given taxation year, the benefit or advantage is deemed, for the purposes of the Part among Parts III.1 to III.1.0.5 that relates to the particular provision, to be non-government assistance that the taxpayer has received, is entitled to receive or may reasonably expect to receive, as the case may be, at that particular time.

History: 2007, c. 12, s. 224.

Repayment of a benefit or advantage.

1129.0.0.4. If, at a particular time after 21 April 2005, a person or partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be the repayment of a benefit or advantage that, for the purpose of computing an amount, in this section referred to as the “credit amount”, that a taxpayer is deemed to have paid to the Minister for any given taxation year under a particular provision of any of Divisions II.6.0.1.7 and II.6.6.1 to II.6.7, as that Division II.6.7 read before being repealed, of Chapter III.1 of Title III of Book IX of Part I, was taken into account in computing an expenditure or the taxpayer’s share of an expenditure, the following rules have effect, where applicable, for the purposes of the Part among Parts III.1.1.7 and III.10.1.2 to III.10.2 that relates to the particular provision:

(a) if the expenditure was incurred by the taxpayer, the provision of that Part that applies in respect of the repayment by the taxpayer of an amount of government assistance or non-government assistance relating to the expenditure also

applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the taxpayer at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the expenditure, was received by the taxpayer;

(b) if the expenditure was incurred by a particular partnership of which the taxpayer is a member, the provision of that Part that applies in respect of the repayment by the partnership of an amount of government assistance or non-government assistance relating to the expenditure also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the particular partnership at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the expenditure, was received by the particular partnership;

(c) if the expenditure was incurred by any corporation other than the taxpayer, the provision of that Part that applies in respect of the repayment by the corporation of an amount of government assistance or non-government assistance relating to the expenditure also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the corporation at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the expenditure, was received by the corporation; and

(d) the assumptions that, because of the application of any of subparagraphs *a* to *c*, were made in respect of the benefit or advantage must be taken into account for the purpose of applying, in relation to the taxpayer, the provision to which that subparagraph refers, in respect of the repayment, after that time, of government assistance or non-government assistance or of another benefit or advantage, relating to the expenditure or to such an expenditure.

Exception.

However, for the purposes of Part III.10.2, subparagraph *c* of the first paragraph is to be read as follows:

“(c) if the expenditure was incurred by a person other than the taxpayer or by a partnership other than the particular partnership to which subparagraph *b* refers, the provision of that Part that applies in respect of the repayment by the person or partnership of an amount of government assistance or non-government assistance relating to the expenditure also applies in respect of the repayment of the benefit or advantage as if

i. the particular amount were an amount paid by the person or partnership at that time, pursuant to a legal obligation, as the repayment of non-government assistance referred to in that provision, and

ii. for the purpose of computing the credit amount for the given taxation year, the benefit or advantage had not been treated as a benefit or advantage but as non-government assistance that, in relation to the expenditure, was received by the person or partnership.”

History: 2007, c. 12, s. 224; 2010, c. 25, s. 198.

Interposed partnership.

1129.0.0.4.1. In Parts III.0.1 to III.10.10, the following rules apply in respect of a taxpayer for a taxation year if one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and a given partnership for a given fiscal period of the given partnership, and if the taxpayer is deemed to have paid an amount to the Minister for a preceding taxation year under Chapter III.1 of Title III of Book IX of Part I, in respect of a cost, an expenditure or expenses incurred by that given partnership in a fiscal period of that given partnership that precedes the given fiscal period (in this section referred to as the “preceding fiscal period”):

(a) the taxpayer is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the taxpayer’s taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer is directly a member, if

i. the particular fiscal period is that which ends in the fiscal period (in this section referred to as the “interposed fiscal period”) of the interposed partnership that is a member of the particular partnership at the end of that particular fiscal period, and

ii. the taxpayer is a member, or deemed to be a member under this paragraph, of the interposed partnership described in subparagraph i at the end of the interposed partnership’s interposed fiscal period;

(b) the agreed proportion in respect of the taxpayer for the given partnership’s given fiscal period is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the taxpayer for the interposed fiscal period of the interposed partnership of which the taxpayer is directly a member, by

i. if there is only one interposed partnership, the agreed proportion in respect of the interposed partnership for the given partnership’s given fiscal period, or

ii. if there is more than one interposed partnership, the result obtained by multiplying together all proportions each of which is the agreed proportion in respect of an interposed partnership for the particular fiscal period of the particular partnership referred to in paragraph *a* of which the interposed partnership is a member at the end of that particular fiscal period; and

(c) if, at a particular time in the given fiscal period, an amount relating to a cost, an expenditure or expenses that the given partnership has incurred in the preceding fiscal period is, or is deemed to be under this subparagraph, directly or indirectly, refunded or otherwise paid to an interposed partnership, or allocated to a payment to be made by it, the share in that amount of each of the members of that interposed partnership at the end of the interposed partnership’s interposed fiscal period, that is equal to the agreed proportion of that amount in respect of that member for the interposed partnership’s interposed fiscal period, is deemed to be, at the particular time, so refunded or paid to that member or allocated to a payment to be made by that member.

History: 2009, c. 15, s. 375.

Assessment.

1129.0.0.4.2. If, at any time in a taxation year, a certificate, qualification certificate or other similar document is revoked or replaced and, as a result, a person is required to pay a tax under a provision of any of Parts III.1 to III.1.7 and III.10.1.1.1 to III.10.9.1, the Minister may make, as of that time and despite any other provision of this Act, an assessment for the year in respect of the person, in relation to the tax.

Determination of interest.

For the purposes of section 1037 in respect of the tax, the person’s balance-due day for that taxation year is deemed to be the date on which the notice of assessment is sent, unless that date is later than the balance-due day.

Provisions not applicable.

Sections 1000 to 1000.3 and 1002 to 1004 do not apply in relation to a tax that may be the subject of an assessment

made under the first paragraph, despite any provision to the contrary in the Part under which the tax is payable.

History: 2012, c. 8, s. 242.

Provisions applicable.

1129.0.0.5. Unless otherwise provided, sections 6 and 17 to 21 apply, with the necessary modifications, to this Part.

History: 2007, c. 12, s. 224.

Reference to a repealed provision.

1129.0.0.6. In every provision of Parts III.0.1, III.0.3, III.1.0.6, III.1.1, III.1.1.1, III.7.1, III.8, III.10.1.1, III.10.1.1.2, III.10.2 to III.10.9.1 and III.12.1, a reference to any of the repealed divisions of Chapter III.1 of Title III of Book IX of Part I, or to any section of those divisions, is a reference to that division or to that section, as the case may be, as it read for the taxation year concerned.

History: 2007, c. 12, s. 224; 2009, c. 5, s. 513; 2010, c. 5, s. 190; 2010, c. 25, s. 199; 2012, c. 8, s. 243.

PART III.0.1 SPECIAL TAX RELATING TO VARIOUS SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT TAX CREDITS

Definitions:

1129.0.1. In this Part,

“consideration”;

“consideration” has the meaning assigned by Division II of Chapter III.1 of Title III of Book IX of Part I;

“contract payment”;

“contract payment” has the meaning assigned by paragraph *c* of section 1029.8.17;

“eligible amount”;

“eligible amount” of a corporation for a taxation year has the meaning assigned by the first paragraph of section 1029.8.16.2;

“eligible fee”;

“eligible fee” has the meaning assigned by section 1029.8.9.0.2;

“eligible fee balance”;

“eligible fee balance” has the meaning assigned by section 1029.8.9.0.2;

“eligible research contract”;

“eligible research contract” has the meaning assigned by paragraph *a.2* of section 1029.8.1;

“qualified expenditure”;

“qualified expenditure” has the meaning assigned by paragraph *d.1* of section 1029.8.1 or section 1029.8.9.1 or 1029.8.16.1.1, as the case may be;

“scientific research and experimental development”;

“scientific research and experimental development” has the meaning assigned by section 1;

“university research contract”;

“university research contract” has the meaning assigned by paragraph *b* of section 1029.8.1;

“wages”.

“wages” has the meaning assigned by Division II of Chapter III.1 of Title III of Book IX of Part I.

History: 1999, c. 83, s. 240; 2000, c. 39, s. 222; 2001, c. 51, s. 205; 2002, c. 40, s. 233; 2007, c. 12, s. 225; 2009, c. 5, s. 514.

Tax payable.

1129.0.2. Every taxpayer who is deemed to have paid an amount to the Minister, under section 1029.7, on account of the taxpayer’s tax payable under Part I, in relation to scientific research and experimental development, shall pay the tax computed under the second paragraph for a taxation year (in this section referred to as the “repayment year”) in which

(a) an amount relating to wages or a portion of a consideration paid in respect of the research and development, or in respect of work relating to the research and development, is, directly or indirectly, refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer; or

(b) a contract payment, government assistance or non-government assistance is received by a person or partnership and the contract payment or assistance would have reduced, in accordance with subparagraph *i* or *ii* of subparagraph *c* of the first paragraph of section 1029.8.18, the amount of a portion of a consideration paid in respect of the research and development, or in respect of work relating to the research and development, if the person or partnership had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the taxpayer’s filing-due date for the taxation year in which the research and development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed to have paid to the Minister under section 1029.7, in relation to the research and development, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, in relation to the research and development, if

i. every amount that is so refunded, paid or allocated at or before the end of the repayment year, in relation to wages or a portion of a consideration paid by the taxpayer in respect of

the research and development, or in respect of work relating to the research and development, were refunded, paid or allocated in the taxation year in which the scientific research and experimental development to which the wages or portion of the consideration relate was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph *b* of the first paragraph that is received by a person or partnership at or before the end of the repayment year, were received in the taxation year in which the scientific research and experimental development to which the contract payment or assistance relates was undertaken; and

(*b*) the aggregate of all amounts each of which is a tax that the taxpayer is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the research and development.

History: 1999, c. 83, s. 240; 2002, c. 40, s. 234; 2009, c. 5, s. 515.

Tax payable.

1129.0.3. Every taxpayer who is a member of a particular partnership and who is deemed to have paid an amount to the Minister, under section 1029.8, on account of the taxpayer's tax payable under Part I, in relation to scientific research and experimental development, shall pay the tax computed under the second paragraph for the taxation year in which ends a fiscal period of the particular partnership (in this section referred to as the "fiscal period of repayment") in which

(*a*) an amount relating to wages or a portion of a consideration paid in respect of the research and development, or in respect of work relating to the research and development, is, directly or indirectly, refunded or otherwise paid to the particular partnership or taxpayer or allocated to a payment to be made by the particular partnership or taxpayer; or

(*b*) a contract payment, government assistance or non-government assistance is received by a person or another partnership and the contract payment or assistance would have reduced, in accordance with subparagraph *i* or *ii* of subparagraph *c* of the first paragraph of section 1029.8.18, the amount of a portion of a consideration paid in respect of the research and development, or in respect of work relating to the research and development, if the person or the other partnership had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the day that is six months after the end of the particular partnership's fiscal period in which the research and development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister for a taxation year under section 1029.8, in

relation to the research and development, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment, exceeds the total of

(*a*) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, for a taxation year, in relation to the research and development, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment and if

i. every amount that is so refunded, paid or allocated at or before the end of the fiscal period of repayment, in relation to wages or a portion of a consideration that the particular partnership paid in respect of the research and development, or in respect of work relating to the research and development, were refunded, paid or allocated in the particular partnership's fiscal period in which the scientific research and experimental development to which the wages or portion of the consideration relate was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph *b* of the first paragraph that is received by a person or another partnership at or before the end of the fiscal period of repayment, were received in the particular partnership's fiscal period in which the scientific research and experimental development to which the contract payment or assistance relates was undertaken; and

(*b*) the aggregate of all amounts each of which is a tax that the taxpayer would be required to pay to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the research and development, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the preceding taxation year were the same as that for the fiscal period of repayment.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph *i* of subparagraph *a* of that paragraph that is refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer is deemed to be an amount

(*a*) that is refunded or otherwise paid to the particular partnership or allocated to a payment to be made by the particular partnership; and

(*b*) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the taxpayer for the fiscal period of repayment.

History: 1999, c. 83, s. 240; 2000, c. 39, s. 223; 2002, c. 40, s. 234; 2006, c. 36, s. 218; 2009, c. 5, s. 516; 2009, c. 15, s. 376.

Tax payable.

1129.0.4. Every taxpayer who is deemed to have paid an amount to the Minister, under section 1029.8.6, on account of the taxpayer's tax payable under Part I, in relation to a university research contract or an eligible research contract under which scientific research and experimental development was undertaken, shall pay the tax computed under the second paragraph for a taxation year (in this section referred to as the "repayment year") in which

(a) an amount relating to a qualified expenditure paid in respect of the contract is, directly or indirectly, refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer; or

(b) a contract payment, government assistance or non-government assistance is received by an eligible university entity, an eligible public research centre or an eligible research consortium, within the meaning of paragraph *f*, *a.1* or *a.1.1* of section 1029.8.1, as the case may be, and the contract payment or assistance would have reduced, in accordance with subparagraph iii of subparagraph *c* of the first paragraph of section 1029.8.18, all or part of the amount of a qualified expenditure paid in respect of the contract, if the eligible university entity, the eligible public research centre or the eligible research consortium had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the taxpayer's filing-due date for the taxation year in which the scientific research and experimental development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed to have paid to the Minister under section 1029.8.6, in relation to the contract, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, in relation to the contract, if

i. every amount that is so refunded, paid or allocated at or before the end of the repayment year, in relation to the amount of a qualified expenditure paid by the taxpayer in respect of the contract, were refunded, paid or allocated in the taxation year in which the scientific research and experimental development to which the expenditure relates was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph *b* of the first paragraph that is received by an eligible university entity, an eligible public research centre or an eligible research consortium, as the case may be, at or before the end of the repayment year, were received in the taxation year in which the scientific research and experimental development

to which the contract payment or assistance relates was undertaken; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the contract.

History: 1999, c. 83, s. 240; 2002, c. 40, s. 234; 2009, c. 5, s. 517.

Tax payable.

1129.0.5. Every taxpayer who is a member of a partnership and who is deemed to have paid an amount to the Minister, under section 1029.8.7, on account of the taxpayer's tax payable under Part I, in relation to a university research contract or an eligible research contract under which scientific research and experimental development was undertaken, shall pay the tax computed under the second paragraph for the taxation year in which ends a fiscal period of the partnership (in this section referred to as the "fiscal period of repayment") in which

(a) an amount relating to a qualified expenditure paid in respect of the contract is, directly or indirectly, refunded or otherwise paid to the partnership or taxpayer or allocated to a payment to be made by the partnership or taxpayer; or

(b) a contract payment, government assistance or non-government assistance is received by an eligible university entity, an eligible public research centre or an eligible research consortium, within the meaning of paragraph *f*, *a.1* or *a.1.1* of section 1029.8.1, as the case may be, and the contract payment or assistance would have reduced, in accordance with subparagraph iii of subparagraph *c* of the first paragraph of section 1029.8.18, all or part of the amount of a qualified expenditure paid in respect of the contract, if the eligible university entity, the eligible public research centre or the eligible research consortium had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the day that is six months after the end of the partnership's fiscal period in which the scientific research and experimental development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister for a taxation year under section 1029.8.7, in relation to the contract, if the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, for a taxation year, in relation to the contract, if the agreed proportion in respect of the

taxpayer for the partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment and if

i. every amount that is so refunded, paid or allocated at or before the end of the fiscal period of repayment, in relation to the amount of a qualified expenditure paid by the partnership in respect of the contract, were refunded, paid or allocated in the partnership's fiscal period in which the scientific research and experimental development to which the expenditure relates was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph *b* of the first paragraph that is received by an eligible university entity, an eligible public research centre or an eligible research consortium, as the case may be, at or before the end of the fiscal period of repayment, were received in the partnership's fiscal period in which the scientific research and experimental development to which the contract payment or assistance relates was undertaken; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer would be required to pay to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the contract, if the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ends in the preceding taxation year were the same as that for the fiscal period of repayment.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph *i* of subparagraph *a* of that paragraph that is refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the taxpayer for the fiscal period of repayment.

History: 1999, c. 83, s. 240; 2000, c. 39, s. 224; 2002, c. 40, s. 234; 2006, c. 36, s. 219; 2009, c. 5, s. 518; 2009, c. 15, s. 377.

Tax payable.

1129.0.6. Every taxpayer who is deemed to have paid an amount to the Minister, under section 1029.8.9.0.3, on account of the taxpayer's tax payable under Part I, shall pay the tax referred to in the second paragraph for a taxation year, in this section referred to as the "repayment year", in which an amount relating to an eligible fee, or an eligible fee balance, of the taxpayer is, directly or indirectly, refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed to have paid to the Minister under section 1029.8.9.0.3, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to an eligible fee, or an eligible fee balance, of the taxpayer for a taxation year, were refunded, paid or allocated in that taxation year; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer is required to pay to the Minister under this section for a taxation year preceding the repayment year.

History: 1999, c. 83, s. 240; 2001, c. 51, s. 206; 2002, c. 40, s. 235.

Tax payable.

1129.0.7. Every taxpayer who is a member of a partnership and who is deemed to have paid an amount to the Minister, under section 1029.8.9.0.4, on account of the taxpayer's tax payable under Part I, in relation to the partnership, shall pay the tax referred to in the second paragraph for the taxation year in which a fiscal period of the partnership ends, in this section referred to as the "fiscal period of repayment", in which an amount relating to an eligible fee, or an eligible fee balance, of the partnership is, directly or indirectly, refunded or otherwise paid to the partnership or taxpayer or allocated to a payment to be made by the partnership or taxpayer.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister for a taxation year under section 1029.8.9.0.4, in relation to the partnership, if the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, for a taxation year, in relation to the partnership, if

i. every amount that is so refunded, paid or allocated at or before the end of the fiscal period of repayment, in relation to an eligible fee, or an eligible fee balance, of the partnership for a fiscal period, were refunded, paid or allocated in that fiscal period, and

ii. the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer would be required to pay to the Minister under this section, in relation to the partnership, for a taxation year preceding the taxation year in which the fiscal period of repayment ends, if the agreed proportion in respect of the taxpayer for the partnership's fiscal period that ends in the preceding taxation year were the same as that for the fiscal period of repayment.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph i of subparagraph a of that paragraph that is refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the taxpayer for the fiscal period of repayment.

History: 1999, c. 83, s. 240; 2000, c. 39, s. 225; 2001, c. 51, s. 207; 2002, c. 40, s. 236; 2006, c. 36, s. 220; 2009, c. 15, s. 378.

Tax payable.

1129.0.8. Every taxpayer who is deemed to have paid an amount to the Minister, under section 1029.8.10 or 1029.8.16.1.4, on account of the taxpayer's tax payable under Part I, in relation to an agreement under which scientific research and experimental development was undertaken, shall pay the tax computed under the second paragraph for a taxation year (in this section referred to as the "repayment year") in which

(a) an amount relating to a qualified expenditure that is made in respect of the agreement is, directly or indirectly, refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer; or

(b) a contract payment, government assistance or non-government assistance is received by a person or partnership and the contract payment or assistance would have reduced, in accordance with subparagraph iv of subparagraph c of the first paragraph of section 1029.8.18, all or part of a qualified expenditure made in respect of the scientific research and experimental development, if the person or partnership had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the taxpayer's filing-due date for the taxation year in which the scientific research and experimental development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed to have paid to the

Minister under section 1029.8.10 or 1029.8.16.1.4, in relation to the agreement, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, in relation to the agreement, if

i. every amount that is so refunded, paid or allocated at or before the end of the repayment year, in relation to a qualified expenditure made by the taxpayer in respect of the agreement, were refunded, paid or allocated in the taxation year in which the scientific research and experimental development to which the expenditure relates was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph b of the first paragraph that is received by the person or partnership at or before the end of the repayment year, were received in the taxation year in which the scientific research and experimental development to which the contract payment or assistance relates was undertaken; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the agreement.

History: 1999, c. 83, s. 240; 2002, c. 40, s. 237; 2007, c. 12, s. 226; 2009, c. 5, s. 519.

Tax payable.

1129.0.9. Every taxpayer who is a member of a particular partnership and who is deemed to have paid an amount to the Minister, under section 1029.8.11 or 1029.8.16.1.5, on account of the taxpayer's tax payable under Part I, in relation to an agreement under which scientific research and experimental development was undertaken, shall pay the tax computed under the second paragraph for the taxation year in which ends a fiscal period of the particular partnership (in this section referred to as the "fiscal period of repayment") in which

(a) an amount relating to a qualified expenditure that is made in respect of the agreement is, directly or indirectly, refunded or otherwise paid to the particular partnership or to the taxpayer or allocated to a payment to be made by the particular partnership or the taxpayer; or

(b) a contract payment, government assistance or non-government assistance is received by a person or another partnership and the contract payment or assistance would have reduced, in accordance with subparagraph iv of subparagraph c of the first paragraph of section 1029.8.18, all or part of a qualified expenditure made in respect of the scientific research and experimental development, if the person or the other partnership had received it, had been entitled to receive it or could reasonably have expected to receive it on or before the day that is six months after the end

of the particular partnership's fiscal period in which the scientific research and experimental development was undertaken.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister for a taxation year under section 1029.8.11 or 1029.8.16.1.5, in relation to the agreement, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the taxpayer would be deemed to have paid to the Minister under that section, for a taxation year, in relation to the agreement, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment and if

i. every amount that is so refunded, paid or allocated at or before the end of the fiscal period of repayment, in relation to a qualified expenditure made by the particular partnership in respect of the agreement, were refunded, paid or allocated in the particular partnership's fiscal period in which the scientific research and experimental development to which the expenditure relates was undertaken, and

ii. every contract payment, government assistance or non-government assistance referred to in subparagraph *b* of the first paragraph that is received by a person or another partnership at or before the end of the fiscal period of repayment, were received in the particular partnership's fiscal period in which the scientific research and experimental development to which the contract payment or assistance relates was undertaken; and

(b) the aggregate of all amounts each of which is a tax that the taxpayer would be required to pay to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the agreement, if the agreed proportion in respect of the taxpayer for the particular partnership's fiscal period that ends in the preceding taxation year were the same as that for the fiscal period of repayment.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph *i* of subparagraph *a* of that paragraph that is refunded or otherwise paid to the taxpayer or allocated to a payment to be made by the taxpayer is deemed to be an amount

(a) that is refunded or otherwise paid to the particular partnership or allocated to a payment to be made by the particular partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the taxpayer for the fiscal period of repayment.

History: 1999, c. 83, s. 240; 2000, c. 39, s. 226; 2002, c. 40, s. 237; 2006, c. 36, s. 221; 2007, c. 12, s. 227; 2009, c. 5, s. 520; 2009, c. 15, s. 379.

Tax payable.

1129.0.9.1. Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.16.6, on account of its tax payable under Part I for a particular taxation year, in relation to its eligible amount for that particular year, shall pay the tax referred to in the second paragraph for a subsequent taxation year, in this section referred to as the "repayment year", in which an amount relating to an expenditure included, in whole or in part, in computing the eligible amount is, directly or indirectly, refunded or otherwise paid to the corporation or to a partnership of which it is a member, or allocated to a payment to be made by the corporation or partnership.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the amount that the corporation is deemed to have paid to the Minister for the particular year under section 1029.8.16.6, in relation to its eligible amount for that particular year, exceeds the total of

(a) the amount that the corporation would be deemed to have paid to the Minister under that section, for that particular year, if every amount that is so refunded, paid or allocated at or before the end of the repayment year, in relation to an expenditure included in whole or in part in computing the eligible amount, were refunded, paid or allocated in the particular year; and

(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under this section, for a taxation year preceding the repayment year, in relation to the eligible amount.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph *a* of that paragraph that is refunded or otherwise paid to a partnership of which the corporation is a member or allocated to a payment to be made by that partnership is deemed to be an amount

(a) that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the agreed proportion in respect of the

corporation for the partnership's fiscal period that ends in the repayment year.

History: 2000, c. 39, s. 227; 2001, c. 51, s. 208; 2002, c. 40, s. 238; 2009, c. 15, s. 380.

Deemed repayment of assistance.

1129.0.9.1.1. For the purposes of Part I, except Division II.4 of Chapter III.1 of Title III of Book IX, tax paid to the Minister by a taxpayer at any time under this Part, in relation to an expenditure, is deemed to be an amount of assistance repaid at that time in respect of the expenditure, pursuant to a legal obligation, by

(a) the partnership referred to in section 1129.0.3, 1129.0.5, 1129.0.7 or 1129.0.9, as the case may be, if the tax arises from an amount directly or indirectly refunded or otherwise paid to that partnership or allocated to a payment required to be made by it; or

(b) the taxpayer, in any other case.

History: 2015, c. 21, s. 505.

1129.0.9.2. (Repealed).

History: 2000, c. 39, s. 227; 2001, c. 51, s. 209; 2002, c. 40, s. 239.

1129.0.9.3. (Repealed).

History: 2000, c. 39, s. 227; 2002, c. 40, s. 240.

Provisions applicable.

1129.0.10. Except where inconsistent with this Part, section 6, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024 and 1026.0.1, subparagraph *b* of the first paragraph of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.

History: 1999, c. 83, s. 240; 2002, c. 40, s. 241.

PART III.0.1.1

SPECIAL TAX RELATING TO THE RECAPTURE OF CERTAIN SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT TAX CREDITS

Definitions:

1129.0.10.1. In this Part,

“consideration”;

“consideration” has the meaning assigned by Division II of Chapter III.1 of Title III of Book IX of Part I;

“disposition”;

“disposition” has the meaning assigned by section 248;

“non-arm's length”;

“non-arm's length” has the meaning assigned by Part I;

“proceeds of disposition”;

“proceeds of disposition” has the meaning assigned by section 251;

“qualified expenditure”;

“qualified expenditure” has the meaning assigned by section 1029.8.9.1 or 1029.8.16.1.1;

“scientific research and experimental development”.

“scientific research and experimental development” has the meaning assigned by section 1.

Partnership deemed a person.

In this Part, for the purpose of determining whether or not a partnership is dealing at arm's length with a person or another partnership, the partnership is deemed to be a person.

History: 2001, c. 53, s. 252; 2007, c. 12, s. 228.

Tax payable.

1129.0.10.2. Every taxpayer who is deemed to have paid an amount to the Minister, under subparagraph *c* or *g* of the first paragraph of section 1029.7, on account of the taxpayer's tax payable under Part I for a particular taxation year shall pay, for a subsequent taxation year, a tax equal to the amount determined in the second paragraph, where

(a) a particular property is acquired by the taxpayer from a person or partnership in the particular taxation year;

(b) the cost of the particular property was a portion of the consideration paid by the taxpayer under a contract referred to in one of those subparagraphs;

(c) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year; and

(d) in the subsequent taxation year and after 23 February 1998, the taxpayer begins to use for commercial purposes, or disposes of without having used for commercial purposes, the particular property or another property that incorporates the particular property.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the taxpayer has paid to the Minister under this section for a taxation year preceding the subsequent taxation year, in relation to the particular property:

(a) the amount that can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II of Chapter III.1 of

Title III of Book IX of Part I for the particular taxation year, in relation to the particular property; and

(b) the product obtained by multiplying the percentage referred to in subparagraph *c* of the first paragraph by

i. if the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252.

Tax payable.

1129.0.10.3. Every taxpayer who is a member of a partnership and is deemed to have paid an amount to the Minister, under subparagraph *c* or *g* of the first paragraph of section 1029.8, in respect of that partnership, on account of the taxpayer's tax payable under Part I for a particular taxation year in which a particular fiscal period of the partnership ends shall pay, for the taxation year in which a subsequent fiscal period ends, a tax equal to the amount determined in the second paragraph, where

(a) a particular property is acquired by the partnership from a person or partnership in the particular fiscal period;

(b) the cost of the particular property was a portion of the consideration paid by the partnership under a contract referred to in one of those subparagraphs;

(c) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year in which the particular fiscal period ends; and

(d) in the subsequent fiscal period and after 23 February 1998, the partnership begins to use for commercial purposes, or disposes of without having used for commercial purposes, the particular property or another property that incorporates the particular property.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the taxpayer would have been required to pay to the Minister under this section for a taxation year preceding the taxation year in which the subsequent fiscal period ends, in relation to the particular property, if the taxpayer's share of the income or loss of the partnership for the fiscal period in which the preceding taxation year ends and the partnership's income or loss for that fiscal period had been the same as those for the subsequent fiscal period:

(a) the amount that can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year, in relation to the particular property; and

(b) the product obtained by multiplying the percentage referred to in subparagraph *c* of the first paragraph by

i. if the particular property or the other property is disposed of to a person who deals at arm's length with the partnership, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252; 2006, c. 36, s. 222.

Tax payable.

1129.0.10.4. Every taxpayer who is deemed to have paid an amount to the Minister, under section 1029.8.10 or 1029.8.16.1.4, on account of the taxpayer's tax payable under Part I for a particular taxation year shall pay, for a subsequent taxation year, a tax equal to the amount determined in the second paragraph, where

(a) a particular property is acquired by the taxpayer from a person or partnership in the particular taxation year;

(b) the cost of the particular property was a qualified expenditure to the taxpayer;

(c) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II.3 or II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year; and

(d) in the subsequent taxation year and after 23 February 1998, the taxpayer begins to use for commercial purposes, or disposes of without having used for commercial purposes, the particular property or another property that incorporates the particular property.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the taxpayer has paid to the Minister under this section for a taxation year preceding the subsequent taxation year, in relation to the particular property:

(a) the amount that can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II.3 or II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I for the

particular taxation year, in relation to the particular property; and

(b) the product obtained by multiplying the percentage referred to in subparagraph *c* of the first paragraph by

i. if the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252; 2007, c. 12, s. 229.

Tax payable.

1129.0.10.5. Every taxpayer who is a member of a partnership and is deemed to have paid an amount to the Minister, under section 1029.8.11 or 1029.8.16.1.5, in respect of that partnership, on account of the taxpayer's tax payable under Part I for a particular taxation year in which a particular fiscal period of the partnership ends shall pay, for the taxation year in which a subsequent fiscal period ends, a tax equal to the amount determined in the second paragraph, where

(a) a particular property is acquired by the partnership from a person or partnership in the particular fiscal period;

(b) the cost of the particular property was a qualified expenditure to the partnership;

(c) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II.3 or II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year in which the particular fiscal period ends; and

(d) in the subsequent fiscal period and after 23 February 1998, the partnership begins to use for commercial purposes, or disposes of without having used for commercial purposes, the particular property or another property that incorporates the particular property.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the taxpayer would have been required to pay to the Minister under this section for a taxation year preceding the taxation year in which the subsequent fiscal period ends, in relation to the particular property, if the taxpayer's share of the income or loss of the partnership for the fiscal period in which the preceding taxation year ends and the partnership's income or loss for that fiscal period had been the same as those for the subsequent fiscal period:

(a) the amount that can reasonably be considered to be included in the amount that the taxpayer is deemed to have paid to the Minister under Division II.3 or II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I for the particular taxation year, in relation to the particular property; and

(b) the product obtained by multiplying the percentage referred to in subparagraph *c* of the first paragraph by

i. if the particular property or the other property is disposed of to a person who deals at arm's length with the partnership, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252; 2006, c. 36, s. 223; 2007, c. 12, s. 230.

Cost of a particular property.

1129.0.10.6. For the purposes of sections 1129.0.10.2 to 1129.0.10.5, the cost of a particular property to a taxpayer shall not exceed the amount paid by the taxpayer to acquire the particular property from a transferor of the particular property and does not include amounts paid by the taxpayer to maintain, modify or transform the particular property.

History: 2001, c. 53, s. 252.

Transfer between related parties.

1129.0.10.7. Sections 1129.0.10.2 to 1129.0.10.5, 1129.0.10.8 and 1129.0.10.9 do not apply to a taxpayer or partnership, in this section referred to as the "transferor", that disposes of a property to a person or partnership that does not deal at arm's length with the transferor, if the person or partnership acquired the property in circumstances where the cost of the property to the person or partnership would have been an expenditure described in subparagraph iii of subparagraph *b* or *c* of the first paragraph of section 230 or an expenditure to which the definition of "qualified expenditure" in section 1029.8.9.1 refers, without reference to paragraph *d* of section 1029.8.15.1, or in the definition of that expression in the first paragraph of section 1029.8.16.1.1, without reference to paragraph *d* of section 1029.8.16.1.6.

History: 2001, c. 53, s. 252; 2007, c. 12, s. 231.

Tax payable.

1129.0.10.8. A person, in this section referred to as the "purchaser", shall pay for a particular taxation year a tax equal to the amount determined in the second paragraph, where, at any particular time in the year and after 23 February 1998, the purchaser begins to use for commercial purposes, or disposes of without having used for commercial purposes, a property

(a) that was acquired by the purchaser in circumstances described in section 1129.0.10.7 or that is another property that incorporates a property acquired in such circumstances; and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership, in this section referred to as the “original user”, with which the purchaser did not deal at arm’s length at the time at which the purchaser acquired the property, in the original user’s taxation year or fiscal period that includes the particular time, on the assumption that the original user had such a taxation year or fiscal period, or in any of the original user’s preceding taxation years or fiscal periods.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the purchaser has paid to the Minister under this section for a taxation year preceding the particular taxation year, in relation to the property:

(a) the amount

i. included in the amount that the original user is deemed to have paid to the Minister under any of Divisions II, II.3 and II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I, in relation to the property, or

ii. where the original user is a partnership, that can reasonably be considered to be included in the amount that a taxpayer is deemed to have paid to the Minister under any of sections 1029.8, 1029.8.11 and 1029.8.16.1.5, in relation to the property; and

(b) the product obtained by multiplying the percentage that was applied by the original user in determining the amount referred to in subparagraph *a* by

i. if the property or the other property is disposed of to a person who deals at arm’s length with the purchaser, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252; 2007, c. 12, s. 232.

Tax payable.

1129.0.10.9. Every taxpayer who is a member of a particular partnership at the end of a particular fiscal period of the partnership shall pay, for the taxation year in which the particular fiscal period ends, a tax equal to the amount determined in the second paragraph, where, at any particular time in the particular fiscal period and after 23 February 1998, the particular partnership begins to use for

commercial purposes, or disposes of without having used for commercial purposes, a property

(a) that was acquired by the particular partnership in circumstances described in section 1129.0.10.7 or that is another property that incorporates a property acquired in such circumstances; and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership, in this section referred to as the “original user”, with which the particular partnership did not deal at arm’s length at the time at which the particular partnership acquired the property, in the original user’s taxation year or fiscal period that includes the particular time, on the assumption that the original user had such a taxation year or fiscal period, or in any of the original user’s preceding taxation years or fiscal periods.

Amount of the tax.

The amount to which the first paragraph refers is the amount by which the lesser of the following amounts exceeds any amount of tax that the taxpayer would have been required to pay to the Minister under this section for a taxation year preceding the taxation year in which the particular fiscal period ends, in relation to the property, if the taxpayer’s share of the income or loss of the particular partnership for the fiscal period in which the preceding taxation year ends and the particular partnership’s income or loss for that fiscal period had been the same as those for the particular fiscal period:

(a) the amount

i. included in the amount that the original user is deemed to have paid to the Minister under any of Divisions II, II.3 and II.3.0.1 of Chapter III.1 of Title III of Book IX of Part I, in relation to the property, or

ii. where the original user is a partnership, that can reasonably be considered to be included in the amount that a taxpayer is deemed to have paid to the Minister under any of sections 1029.8, 1029.8.11 and 1029.8.16.1.5, in relation to the property; and

(b) the product obtained by multiplying the percentage that was applied by the original user in determining the amount referred to in subparagraph *a* by

i. if the property or the other property is disposed of to a person who deals at arm’s length with the particular partnership, the proceeds of disposition of that property, or

ii. in any other case, the fair market value of the particular property or the other property at the time it begins to be used for commercial purposes or is disposed of.

History: 2001, c. 53, s. 252; 2006, c. 36, s. 224; 2007, c. 12, s. 233.

Deemed repayment of assistance.

1129.0.10.9.1. For the purposes of Part I, except for Division II.4 of Chapter III.1 of Title III of Book IX, the following rules apply:

(a) tax paid to the Minister by a taxpayer at any time under any of sections 1129.0.10.2, 1129.0.10.4 and 1129.0.10.8, in relation to a particular property of the taxpayer, is deemed to be an amount of assistance repaid by the taxpayer at that time in respect of the property, pursuant to a legal obligation; and

(b) tax paid to the Minister by a taxpayer at any time under any of sections 1129.0.10.3, 1129.0.10.5 and 1129.0.10.9, in relation to a particular property of a partnership of which the taxpayer is a member, is deemed to be an amount of assistance repaid by the partnership at that time in respect of the property, pursuant to a legal obligation.

History: 2015, c. 21, s. 506.

Provisions applicable.

1129.0.10.10. Except where inconsistent with this Part, section 6, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph *b* of the first paragraph of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.

History: 2001, c. 53, s. 252.

PART III.0.2**SPECIAL TAX RELATING TO THE CREDIT FOR TECHNOLOGICAL ADAPTATION SERVICES****Definition.**

1129.0.11. In this Part, “qualified expenditure” has the meaning assigned by section 1029.8.21.17.

History: 2000, c. 39, s. 228; 2001, c. 51, s. 228; 2007, c. 12, s. 234.

Tax payable.

1129.0.12. Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.21.22, on account of its tax payable under Part I for a particular taxation year, in relation to a qualified expenditure incurred in the particular year, shall pay the tax referred to in the second paragraph for a subsequent taxation year, in this section referred to as the “repayment year”, in which an amount relating to an expenditure included in computing the qualified expenditure is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to

the Minister under section 1029.8.21.22 or 1029.8.21.26, in relation to the qualified expenditure, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister under section 1029.8.21.22 or 1029.8.21.26, in relation to the qualified expenditure, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to an expenditure included in computing the qualified expenditure were refunded, paid or allocated in the particular year; and

(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the qualified expenditure.

History: 2000, c. 39, s. 228; 2002, c. 40, s. 242.

Tax payable.

1129.0.13. Every corporation that is a member of a partnership and that is deemed to have paid an amount to the Minister, under section 1029.8.21.23, on account of its tax payable under Part I for a particular taxation year, in relation to a qualified expenditure incurred by the partnership in a particular fiscal period of the partnership that ends in the particular year, shall pay the tax referred to in the second paragraph for the taxation year in which a subsequent fiscal period of the partnership ends, in this section referred to as the “fiscal period of repayment”, in which an amount relating to an expenditure included in computing the qualified expenditure is, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister for a taxation year under any of sections 1029.8.21.23, 1029.8.21.27 and 1029.8.21.28, in relation to the qualified expenditure, if the agreed proportion in respect of the corporation for the partnership’s fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister under any of sections 1029.8.21.23, 1029.8.21.27 and 1029.8.21.28, for a taxation year, in relation to the qualified expenditure, if

i. every amount that is so refunded, paid or allocated at or before the end of the fiscal period of repayment, in relation to an expenditure included in computing the qualified expenditure, were refunded, paid or allocated in the particular fiscal period, and

ii. the agreed proportion in respect of the corporation for the partnership's fiscal period that ends in the taxation year were the same as that for the fiscal period of repayment; and

(b) the aggregate of all amounts each of which is a tax that the corporation would be required to pay to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the qualified expenditure, if the agreed proportion in respect of the corporation for the partnership's fiscal period that ends in the preceding taxation year were the same as that for the fiscal period of repayment.

Presumption.

For the purposes of the second paragraph, an amount referred to in subparagraph i of subparagraph a of that paragraph that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the corporation for the fiscal period of repayment.

History: 2000, c. 39, s. 228; 2002, c. 40, s. 242; 2006, c. 36, s. 225; 2009, c. 15, s. 381.

Deemed repayment of.

1129.0.14. For the purposes of Part I, except for Division II.4.2 of Chapter III.1 of Title III of Book IX, the following rules apply:

(a) tax paid to the Minister by a corporation at any time, under section 1129.0.12, in relation to a qualified expenditure is deemed to be an amount of assistance repaid by the corporation at that time in respect of that expenditure, pursuant to a legal obligation to do so; and

(b) tax paid to the Minister by a corporation at any time, under section 1129.0.13, in relation to a qualified expenditure is deemed to be an amount of assistance repaid at that time by the partnership referred to in that section in respect of that expenditure, pursuant to a legal obligation to do so.

History: 2000, c. 39, s. 228.

Provisions applicable.

1129.0.15. Except where inconsistent with this Part, section 6, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph b of the first paragraph of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.

History: 2000, c. 39, s. 228.

PART III.0.3 SPECIAL TAX RELATING TO E-COMMERCE SOLUTIONS

Definitions:

1129.0.16. In this Part,

“e-commerce solution”;

“e-commerce solution” has the meaning assigned by the first paragraph of section 1029.8.21.32;

“eligible e-commerce solution”;

“eligible e-commerce solution” has the meaning assigned by section 1029.8.21.32;

“eligible production expenditure”;

“eligible production expenditure” has the meaning assigned by the first paragraph of section 1029.8.21.32;

“production expenditure”.

“production expenditure” has the meaning assigned by the first paragraph of section 1029.8.21.32.

History: 2001, c. 51, s. 210; 2007, c. 12, s. 304.

Tax payable.

1129.0.17. Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.21.42 or 1029.8.21.44, on account of its tax payable under Part I, shall pay the tax referred to in the second paragraph for a taxation year, in this section referred to as the “repayment year”, if

(a) an amount relating to an expenditure included in an eligible production expenditure of the corporation is, in the repayment year, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation; or

(b) an amount relating to an expenditure included in an eligible production expenditure of a partnership of which the corporation is a member and in respect of which the corporation is so deemed to have paid an amount under section 1029.8.21.44 is, in the fiscal period of the partnership that ends in the repayment year, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

Determination of tax.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under section 1029.8.21.42, or an amount it would be deemed to have paid to the Minister for a particular taxation year under section 1029.8.21.44, in relation to a partnership of which the corporation is a member at the end of the partnership's fiscal period that ends in the repayment year, if the agreed proportion in respect of the corporation for the partnership's fiscal period that ends in the particular year

were the same as that for the partnership's fiscal period that ends in the repayment year, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister,

i. under section 1029.8.21.42, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to an expenditure included in an eligible production expenditure of the corporation for a taxation year, were refunded, paid or allocated in the taxation year, or

ii. under section 1029.8.21.44, for a particular taxation year, in relation to a partnership of which the corporation is a member at the end of the partnership's fiscal period that ends in the repayment year, in this subparagraph referred to as the "fiscal period of repayment", if

(1) every amount that is, at or before the end of the fiscal period of repayment, so refunded, paid or allocated, in relation to an expenditure included in an eligible production expenditure of the partnership for a fiscal period, were refunded, paid or allocated in the fiscal period, and

(2) the agreed proportion in respect of the corporation for the partnership's fiscal period that ends in the particular taxation year were the same as that for the fiscal period of repayment; and

(b) the aggregate of all amounts each of which is a tax that the corporation would be required to pay to the Minister under this section, for a taxation year preceding the repayment year, if the agreed proportion in respect of the corporation for a partnership's fiscal period that ends in the preceding taxation year were the same as that for the partnership's fiscal period that ends in the repayment year.

Presumption.

For the purposes of subparagraph *a* of the second paragraph, an amount that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation, in relation to an expenditure included in an eligible production expenditure of a partnership of which the corporation is a member at the end of the partnership's fiscal period that ends in the repayment year, is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the reciprocal of the agreed proportion in respect of the corporation for the partnership's fiscal period that ends in the repayment year.

History: 2001, c. 51, s. 210; 2002, c. 40, s. 243; 2006, c. 36, s. 226; 2007, c. 12, s. 235; 2009, c. 15, s. 382.

Amount deemed refunded.

1129.0.18. For the purposes of section 1129.0.17, the amount determined in the second paragraph, in relation to a particular expenditure that is included in the eligible production expenditure of a corporation for a particular taxation year in respect of an eligible e-commerce solution, is deemed to be refunded to the corporation in its taxation year that includes 1 April 2003, in this section referred to as the "repayment year", if

(a) the eligible e-commerce solution ceased to be eligible, for all or part of the particular year, as the case may be, because the conditions set out in paragraphs *a* and *b* of the definition of "eligible e-commerce solution" in the first paragraph of section 1029.8.21.32 had not been satisfied or had not again been satisfied, as the case may be, in respect of the corporation, on or before 31 March 2003; or

(b) application software, the cost of which is a production expenditure that is included in the eligible production expenditure, or may reasonably be attributed to the portion of a consideration that is included in computing the eligible production expenditure, was not integrated into the eligible e-commerce solution before 1 April 2003.

Determination of amount.

The amount to which the first paragraph refers is equal to,

(a) in the case provided for in subparagraph *a* of the first paragraph, the amount by which the portion of the particular expenditure that may reasonably be attributed to the portion of the particular year for which the eligible e-commerce solution ceased to be eligible, exceeds the aggregate of all amounts each of which is an amount that relates to the portion of the particular expenditure that, in a taxation year preceding the repayment year but subsequent to the particular year, was refunded, otherwise paid or allocated to a payment to be made by the corporation; or

(b) in the case provided for in subparagraph *b* of the first paragraph, the amount by which the portion of the particular expenditure that may reasonably be attributed to the cost of application software, unless the portion is included in computing an amount that is deemed to be refunded under subparagraph *a*, exceeds the aggregate of all amounts each of which is an amount that relates to the portion of the particular expenditure that, in a taxation year preceding the repayment year but subsequent to the particular year, was refunded, otherwise paid or allocated to a payment to be made by the corporation.

Exception.

No tax is payable for a taxation year under section 1129.0.17 in respect of any amount that is refunded or otherwise paid to the corporation, or is allocated to a payment to be made by the corporation, if that amount is included in an amount that

is deemed to have been refunded, under this section, in the taxation year or a preceding taxation year.

History: 2001, c. 51, s. 210; 2002, c. 40, s. 243.

1129.0.19. *(Repealed).*

History: 2001, c. 51, s. 210; 2002, c. 40, s. 244.

Amount deemed refunded.

1129.0.20. For the purposes of section 1129.0.17, the amount determined in the second paragraph, in relation to a particular expenditure that is included in the eligible production expenditure of a partnership of which a corporation is a member for a particular fiscal period in respect of an eligible e-commerce solution, is deemed to be refunded to the partnership in its fiscal period that includes 1 April 2003, in this section referred to as the "fiscal period of repayment", if

(a) the eligible e-commerce solution ceased to be eligible, for all or part of the particular fiscal period, as the case may be, because the conditions set out in paragraphs *a* and *b* of the definition of "eligible e-commerce solution" in the first paragraph of section 1029.8.21.32 had not been satisfied or had not again been satisfied, as the case may be, in respect of the partnership, on or before 31 March 2003; or

(b) application software, the cost of which is a production expenditure that is included in the eligible production expenditure, or may reasonably be attributed to the portion of a consideration that is included in computing the eligible production expenditure, was not integrated into the eligible e-commerce solution before 1 April 2003.

Determination of amount.

The amount to which the first paragraph refers is equal to,

(a) in the case provided for in subparagraph *a* of the first paragraph, the amount by which the portion of the particular expenditure that may reasonably be attributed to the portion of the particular fiscal period for which the eligible e-commerce solution ceased to be eligible, exceeds the aggregate of all amounts each of which is an amount that relates to the portion of the particular expenditure that, in a fiscal period preceding the fiscal period of repayment but subsequent to the particular fiscal period, was refunded, otherwise paid or allocated to a payment to be made by the partnership or corporation; or

(b) in the case provided for in subparagraph *b* of the first paragraph, the amount by which the portion of the particular expenditure that may reasonably be attributed to the cost of application software, unless the portion is included in computing an amount that is deemed to be refunded under subparagraph *a*, exceeds the aggregate of all amounts each of which is an amount that relates to the portion of the particular expenditure that, in a fiscal period preceding the fiscal period of repayment but subsequent to the particular

fiscal period, was refunded, otherwise paid or allocated to a payment to be made by the partnership or corporation.

Presumption.

For the purposes of the second paragraph, an amount that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation, in relation to the portion of a particular expenditure, is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership, or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the proportion that the income or loss of the partnership for the fiscal period of repayment is of the corporation's share of that income or loss, on the assumption that, if the partnership's income and loss for that fiscal period are nil, the partnership's income is equal to \$1,000,000.

Exception.

No tax is payable for a taxation year under section 1129.0.17 in respect of any amount that is refunded or otherwise paid to the partnership or corporation, or is allocated to a payment to be made by the partnership or corporation, if that amount is included in an amount that is deemed to have been refunded, under this section, in a fiscal period of the partnership that ends in the taxation year or in a preceding taxation year.

History: 2001, c. 51, s. 210; 2002, c. 40, s. 245.

Deemed repayment of assistance.

1129.0.21. For the purposes of Part I,

(a) tax paid to the Minister by a corporation at any time, under section 1129.0.17, in relation to an expenditure that is included in an eligible production expenditure of the corporation, is deemed to be an amount of assistance repaid by the corporation at that time in respect of that expenditure, pursuant to a legal obligation; and

(b) tax paid to the Minister by a corporation at any time, under section 1129.0.17, in relation to an expenditure that is included in an eligible production expenditure of a partnership of which the corporation is a member, is deemed to be an amount of assistance repaid by that partnership at that time in respect of that expenditure, pursuant to a legal obligation.

History: 2001, c. 51, s. 210; 2002, c. 40, s. 246; 2009, c. 15, s. 383.

Provisions applicable.

1129.0.22. Except where inconsistent with this Part, section 6, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph *b* of the first paragraph

of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.

History: 2001, c. 51, s. 210.

PART III.1 SPECIAL TAX IN RESPECT OF QUÉBEC FILM PRODUCTIONS

BOOK I DEFINITIONS

Definitions:

1129.1. In this Part,

“computer-aided special effects and animation expenditure”;

“computer-aided special effects and animation expenditure” has the meaning assigned by section 1029.8.34;

“expenditure for services rendered outside the Montréal area”;

“expenditure for services rendered outside the Montréal area” has the meaning assigned by section 1029.8.34;

“qualified computer-aided special effects and animation expenditure”;

“qualified computer-aided special effects and animation expenditure” has the meaning assigned by section 1029.8.34;

“qualified expenditure for services rendered outside the Montréal area”;

“qualified expenditure for services rendered outside the Montréal area” has the meaning assigned by section 1029.8.34;

“qualified labour expenditure”;

“qualified labour expenditure” has the meaning assigned by section 1029.8.34;

“Québec film production”;

“Québec film production” has the meaning assigned by the first paragraph of section 1029.8.34;

“regional corporation”;

“regional corporation” has the meaning assigned by the first paragraph of section 1029.8.34;

“regional production”.

“regional production” has the meaning assigned by the first paragraph of section 1029.8.34.

History: 1992, c. 1, s. 204; 1993, c. 64, s. 186; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1999, c. 83, s. 241; 2001, c. 51, s. 211; 2002, c. 40, s. 247; 2005, c. 23, s. 240; 2007, c. 12, s. 304.