

December 13, 2018

2018-10

HARMONIZATION WITH A MEASURE ANNOUNCED IN THE FEDERAL BUDGET OF FEBRUARY 27, 2018 AND OTHER MEASURES

This information bulletin provides the position of the Ministère des Finances on the measure presented in the February 27, 2018 federal budget regarding the lowering of the Canadian-controlled private corporation's business limit on the basis of passive investment income.

It also makes public the amendments to be made to the tax legislation to broaden the recognition as practitioners, particularly for the application of the tax credit for medical expenses, to all persons duly authorized to exercise the profession of psychotherapist.

Lastly, it announces some legislative amendments to recognize as eligible the investments made by labour-sponsored funds in a new fund of venture capital funds and to adjust the amount of each of the exemptions allowed to establish the threshold at which a premium becomes payable under the Public Prescription Drug Insurance Plan.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal, de l'optimisation des revenus et des politiques locales et autochtones at 418 691-2236.

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1. HARMONIZATION WITH A MEASURE IN THE ACT IMPLEMENTING THE 2018 BUDGET

On June 21, 2018, the *Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures* (hereinafter, the “Budget Implementation Act”) received Royal Assent.¹ Among other things, the Budget Implementation Act aims to implement certain tax measures proposed in the federal budget of February 27, 2018.

Québec’s position on the majority of the tax measures in the Budget Implementation Act was made public in the March 2018 Québec Economic Plan² and in *Information Bulletin 2018-6*.³

The Ministère des Finances did not, however, make known Québec’s position on the lowering of the Canadian-controlled private corporation’s business limit on the basis of passive investment income.⁴ Québec’s position can be found herein.

Québec’s tax legislation will be amended to incorporate, with adaptations on the basis of its general principles, the measure pertaining to the lowering of the Canadian-controlled private corporation’s business limit on the basis of passive investment income.

The amendments to Québec’s tax legislation will apply on the same date as that retained for the purposes of the provisions of the federal tax legislation with which they are harmonized.

2. GREATER RECOGNITION OF PSYCHOTHERAPISTS IN THE DEFINITION OF THE TERM “PRACTITIONER” USED IN THE PERSONAL INCOME TAX SYSTEM

The tax legislation defines, for the purposes of the deduction for support services and products for a handicapped person and the tax credit for medical expenses, the meaning of the term “practitioner.”⁵

Subject to certain conditions, a practitioner means a person practising a profession recognized by the Professional Code,⁶ within the scope of which health-related care and treatments are provided to individuals, unless the person is practising the profession of psychologist, social worker, vocational guidance counsellor, psychoeducator, sexologist or marriage and family therapist, in which case such person is considered a practitioner solely regarding certain services.

¹ Bill C-74.

² Ministère des Finances du Québec, *The Québec Economic Plan – Additional Information 2018-2019*, March 27, 2018, p. A.132.

³ Ministère des Finances du Québec, *Information Bulletin 2018-6*, July 10, 2018, pp. 3-6.

⁴ The amendments to the federal tax legislation related to this measure are set out in Budget Resolution 18 of the *Notice of Ways and Means Motion to Amend the Income Tax Act and Other Related Legislation* tabled in the House of Commons on February 27, 2018 and in subsections 20(2), (3) and (5) of the Budget Implementation Act.

⁵ This definition is given in section 752.0.18 of the *Taxation Act*.

⁶ CQLR, chapter C-26.

The term “practitioner” also means a person practising the profession of homeopath, naturopath, osteopath or phytotherapist, in respect of services the person provides in that capacity as well as a person practising the profession of psychoanalyst, in respect of therapy services.

Thus, tax legislation currently recognizes persons practising psychotherapy as a “practitioner” if they provide their services either as a physician, nurse or occupational therapist, or regarding certain services, such as psychotherapy, provided in the capacity of psychologist, social worker, vocational guidance counsellor, psychoeducator, sexologist, or marriage and family therapist.

Although psychotherapists as a whole are not governed by their own professional order, the profession of psychotherapist has been legally regulated in Québec since June 21, 2012, particularly by the *Professional Code* and the *Regulation respecting the psychotherapist's permit*.⁷ With the exception of physicians and psychologists, persons in Québec are forbidden from practising psychotherapy unless they have a psychotherapist's permit issued by the Ordre professionnel des psychologues du Québec (OPPQ), in addition to being a member of a professional order that is recognized for practicing psychotherapy,⁸ subject to certain transitional measures.

The psychotherapist's permit is issued to persons who meet a number of conditions regarding their training, experience and diploma. Furthermore, psychotherapists are subject to rules regarding continuing education and professional inspections. They may also be subject to disciplinary measures.

The term “practitioner” does not currently include certain persons duly authorized to practice psychotherapy. Under the transitional measures, persons who are not a member of a professional order recognized for practising psychotherapy may obtain a psychotherapist's permit from the OPPQ and, in doing so, legally practice psychotherapy in Québec, provided they meet certain conditions confirming their competency. Several provisions of the *Professional Code* then apply to those persons, with the necessary adaptations, including the provisions pertaining to professional inspections and disciplinary measures.⁹

In addition, on July 22, 2015, the Ordre professionnel des criminologues du Québec was constituted,¹⁰ and its members can practise psychotherapy provided they hold a psychotherapist's permit issued by the OPPQ.

⁷ CQLR, chapter C-26, r. 222.1.

⁸ The Ordre professionnel des conseillers et des conseillères d'orientation du Québec, the Ordre professionnel des ergothérapeutes du Québec, the Ordre professionnel des infirmières et infirmiers du Québec, the Ordre professionnel des psychoéducateurs et psychoéducatrices du Québec, the Ordre professionnel des sexologues du Québec and the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec.

⁹ Section 11 of the *Regulation respecting the psychotherapist's permit*.

¹⁰ Order-in-council 639-2015 concerning the constitution by letters patent of the Ordre professionnel des criminologues du Québec was published on July 22, 2015 in the *Gazette officielle du Québec* ((2015) Vol. 147 G.O. 2, 1544).

To take into account all practising psychotherapists and fully follow up on the regulation of the profession as of June 21, 2012, the tax legislation will be amended to recognize as “practitioners”, as of that date, persons authorized to practise the profession of psychotherapist, in accordance with the laws of the jurisdiction in which their services are rendered, in respect of services rendered as psychotherapists.

Lastly, since the greater recognition of psychotherapists, the tax legislation will also be amended to remove the reference to the profession of psychoanalyst from the definition of practitioner with regard to expenses incurred after the date of publication of this information bulletin.

3. RECOGNITION OF INVESTMENTS MADE BY LABOUR-SPONSORED FUNDS IN THE TERALYS CAPITAL INNOVATION FUND 2018 L.P.

Since the establishment of the Fonds de solidarité des travailleurs du Québec (F.T.Q) and Fondation, the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi (hereinafter referred to jointly as the “labour-sponsored funds”), the government has supported their growth by granting the individuals who become shareholders of the funds a non-refundable tax credit.

Since the granting of a tax benefit facilitates financing for the labour-sponsored funds, an investment requirement has been incorporated into their enabling legislation¹¹ to ensure, in particular, that the funds collected are used as a financing tool that contributes to the rapid development of Québec entities.

The requirement stipulates that for each fiscal year the eligible investments from each of the funds must represent, on average, at least 64% of their average net assets for the preceding fiscal year.¹²

Over the years, the enabling legislation of the labour-sponsored funds has been amended to take into consideration the importance of the role that the funds play in the Québec economy. Several of the amendments sought to ensure that the list of eligible investments of the labour-sponsored funds is better adapted to the capital requirements of Québec enterprises.

Briefly, with regard to the application of the investment requirement, eligible investments by the labour-sponsored funds are investments that do not include any security or hypothec and that consist, by way of an example, in investments in eligible enterprises, investments in major projects that have a structuring effect on the Québec economy, strategic investments made in accordance with an investment policy approved by the Minister of Finance, and investments made in certain local venture capital funds created and managed in Québec.

Venture capital plays a vital role for innovative businesses since it enables them to obtain the necessary resources to expand and create jobs.

¹¹ *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)* (CQLR, chapter F-3.2.1) and *Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi* (CQLR, chapter F-3.1.2).

¹² This percentage applies for the fiscal year ending May 31, 2019. It will increase to 65% for fiscal years beginning after May 31, 2019.

Over the past decade, the Québec government has launched several initiatives to stimulate the Québec venture capital industry. To ensure the availability of sufficient venture capital to support the development of Québec technology enterprises, the government participated, in particular, in the establishment in 2009 of Teralys Capital Fund of Funds, L.P. The mission of the fund is to finance private venture capital funds focusing on the information technologies, life sciences and clean technologies.

In 2014, in order to consolidate the past achievements of its action plan to promote the Québec venture capital industry, the Québec government participated, jointly with the Government of Canada and other private sector stakeholders, including the labour-sponsored funds, in the creation of a fund of venture capital funds, Teralys Capital Innovation Fund, L.P., whose mission includes the recapitalization of the most efficient private funds. At the same time, the Québec government recognized the investments made by this fund of venture capital funds as eligible investments for the purposes of calculating the 64% investment requirement applicable to the labour-sponsored funds.¹³

Under the *March 2018 Québec Economic Plan*, the Québec government announced that it was supporting Teralys Capital's candidacy under the federal government's Venture Capital Catalyst Initiative in order to maintain its leadership in the realm of venture capital investments in Canada and pursue support for key initiatives to maintain a solid footing for the financing of technology enterprises.¹⁴

To this end, the Québec government will participate, in collaboration with the Government of Canada and other private sector stakeholders, including the labour-sponsored funds, in the creation of a new fund of venture capital funds, the Teralys Capital Innovation Fund 2018 L.P.

To acknowledge the contribution of labour-sponsored funds to the establishment of the new fund of venture capital funds, their enabling legislation will be amended to stipulate that the investments that the labour-sponsored funds make in the Teralys Capital Innovation Fund 2018 L.P. will be considered eligible investments for the purposes of calculating the 64% investment requirement applicable to them.

Investments that have been agreed and in respect of which funds have been committed but not yet disbursed at the end of a given fiscal year will also be considered as eligible investments. For greater clarity, such investments will not be included for the purposes of calculating the 12% authorized limit that is usually applicable to undisbursed investments.

The amendments will apply to any fiscal year of the labour-sponsored funds beginning after May 31, 2018.

¹³ Ministère des Finances du Québec, *Budget 2014-2015 – Additional Information on the Fiscal Measures of the Budget*, June 4, 2014, p. 72 and ministère des Finances du Québec, *Information Bulletin 2014-8*, October 24, 2014, pp. 6-7.

¹⁴ Ministère des Finances du Québec, *The Québec Economic Plan: Economic Development Measures*, March 27, 2018, pp. D.31-D.33.

4. ADJUSTMENT OF THE EXEMPTIONS ALLOWED FOR THE PURPOSE OF CALCULATING THE PREMIUM PAYABLE UNDER THE PUBLIC PRESCRIPTION DRUG INSURANCE PLAN

The basic prescription drug insurance plan established by the Québec government guarantees all Quebecers fair access to the medications required by their state of health. Coverage under the plan is provided by the Régie de l'assurance maladie du Québec, as the administrator of the Public Prescription Drug Insurance Plan, or by insurers transacting group insurance or by administrators of private-sector employee benefit plans.

As a general rule, the Régie de l'assurance maladie du Québec provides coverage for individuals who are not required to become members of a group insurance contract, an individual insurance contract concluded on the basis of one or more of the distinctive characteristics of group insurance¹⁵ or an employee benefit plan applicable to a determined group of persons, and coverage for individuals whom no one is required to cover.

Adults registered with the Régie de l'assurance maladie du Québec are required to contribute to the payment of the cost of pharmaceutical services and medications provided to them whenever a prescription is filled or renewed. The contribution, which is subject to a maximum amount, consists of a deductible amount¹⁶ and a coinsurance payment.¹⁷

However, adults whose income consists essentially of social assistance benefits based on an examination of resources, needs or income are exempt from paying any contribution. This exemption, which targets the most disadvantaged persons, is geared more specifically to persons eligible for a last resort financial assistance program provided for in the *Individual and Family Assistance Act*,¹⁸ as well as to persons 65 years of age or over who receive, pursuant to the *Old Age Security Act*,¹⁹ 94% or more of the maximum amount of the monthly guaranteed income supplement determined, which does not take into account the additional amount granted since July 2011.

Adults who are not covered throughout a year by a group insurance contract, an individual insurance contract concluded on the basis of one or more of the distinctive characteristics of group insurance or an employee benefit plan that is applicable to a determined group of persons must generally pay a premium for that year to finance the Public Prescription Drug Insurance Plan. For 2018, the maximum premium payable is \$641.50 per adult.

However, most adults who are exempt from paying any contribution to the cost of pharmaceutical services and medications provided to them under the public plan are also exempt from paying the premium.

¹⁵ The individual insurance contract must be covered by section 42.2 of the *Act respecting prescription drug insurance* (CQLR, chapter A-29-01).

¹⁶ The deductible amount is the portion of the cost of pharmaceutical services and medications borne entirely by the person covered by the plan during the reference period. Since July 1, 2018, the amount of the deductible is \$238.80 per year, divided into equal monthly parts.

¹⁷ The coinsurance payment is the portion of the cost of pharmaceutical services and medications borne by the person covered by the plan. Since July 1, 2018, the coinsurance portion is 34.9%.

¹⁸ CQLR, chapter A-13.1.1.

¹⁹ R.S.C, 1985, c. O-9.

Moreover, to reflect a household's ability to pay, the premium payable by an adult for a year is determined on the basis of family income, from which an exemption amount based on the household's composition is subtracted.²⁰

Since the introduction of the Public Prescription Drug Insurance Plan, the amount of these exemptions has been adjusted annually to protect household purchasing power. In addition, to ensure the progressivity of the premium, two contribution rates are applicable. The first rate²¹ applies to the first \$5 000 of income covered, and the second rate,²² to the portion exceeding \$5 000.

Accordingly, to maintain the principles underlying the determination of the amount of the premium payable to the Public Prescription Drug Insurance Plan, the amount of each of the exemptions currently allowed to establish the threshold at which a premium becomes payable will be adjusted for 2018.

The following table shows the amount of each of the allowable exemptions for 2018, according to household composition.

TABLE

Amount of the exemptions allowed for the purpose of calculating the premium payable under the Public Prescription Drug Insurance Plan for 2018
(dollars)

Household composition	Amount of the exemption
1 adult, no children	16 120
1 adult, 1 child	26 120
1 adult, 2 or more children	29 530
2 adults, no children	26 120
2 adults, 1 child	29 530
2 adults, 2 or more children	32 680

²⁰ The amount that must be applied to reduce family income makes it possible to exempt from payment of the premium adults whose family income is below a certain threshold.

²¹ For 2018, the first contribution rate is 6.65%, in the case of a single person, and 3.35%, in the case of a person living in a couple.

²² For 2018, the second contribution rate is 9.98%, in the case of a single person, and 5.01%, in the case of a person living in a couple.