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Canadian tax alert
2012 Quebec budget highlights

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Budget highlights

Minister of Finance Raymond Bachand presented the 2012-2013 Quebec budget this afternoon. The following is a summary of the tax highlights contained in the budget.

- The 2011-2012 **deficit** is revised downward by $500 million and is expected to reach approximately $3.3 billion.
- A return to fiscal balance is still forecast for 2013-2014.
- Quebec's real GDP growth is expected to reach 1.5% in 2012.
- The growth of total expenditures, excluding debt service, is expected to decline to 2.0% for 2012-2013.
- The government is creating a new agency, Ressources Québec, to invest $1 billion in equity in companies in the mining and hydrocarbon sectors.
- Several measures are being put in place or enhanced to make it easier for immigrants and young people to integrate into the labour market and to retain experienced workers in the workforce.
- The government estimates that two million Quebecers will henceforth have access to a group pension plan thanks to the new voluntary retirement savings plans (VRSPs) which will be available as of January 1, 2013.
- The 2011-2012 deficit will be limited to 1.0% of Quebec's GDP, while the federal government will post a deficit of 1.8% of Canadian GDP.

Measures concerning business

- To encourage private-sector employers to hire or retain workers age 65 or over at work, employers who employ such workers may claim, as of 2013, a **reduction in their contributions to the Health Services Fund.** For each employee who is at least 65 years old, this reduction may reach $400 in 2013, $500 in 2014, and $800 in 2015, and $1,000 as of 2016.

- As of the 2012 tax year, amendments will be made to the tax legislation so that **inter-municipal public transportation services organized by employers for a large number of their employees** benefit from a similar tax treatment to that currently granted to employers who set up a program promoting regular use of public transit.
- Amendments will be made to the **tax credit for new graduates working in a remote resource region.** First, the maximum tax assistance will be increased from $8,000 to $10,000. In addition, the meaning of "recognized post-secondary diploma" has been clarified. These amendments will come into force for individuals who begin to hold eligible employment after March 20, 2012 and within 24 months after they successfully complete training leading to a recognized diploma.
- The **refundable tax credit for labour training in the manufacturing, forestry and mining sectors** will be renewed until December 31, 2015 under the same terms and conditions.
- Amendments will be made to the **tax credit for multimedia titles (general)** and to the **tax credit for corporations specialized in the production of multimedia titles** in order to simplify its application. Accordingly, amendments to the tax legislation, as well as to the sectoral parameters will be made in relation to the categorization of multimedia titles, the specialized corporation certificate, the rules applicable to subcontracting and eligible production work. These amendments will come into force after March 20, 2012.
- The **tax credit for investments relating to manufacturing and processing equipment** will be improved to take into account the value added by certain ore processing activities (other than ore from a gold or silver mine and extracted from a mineral resource located in Canada), i.e., smelting, refining and hydrometallurgy. Amendments will be made to the tax legislation such that the property primarily used for these activities may qualify as eligible property for the purposes of the tax credit. Generally speaking, property will be eligible for the enhanced credit if it is acquired between March 20, 2012 and January 1, 2018.
- To encourage **the creation of new corporations in the financial services sector,** two new refundable tax credits will be introduced for a period of five years. A new eligible corporation may claim a refundable tax credit for the hiring of employees by a new financial services company that represents 30% of the eligible salary it pays to its eligible employees during a taxation year included in its five-year period of eligibility. This tax credit will be limited to $30,000 per eligible employee on an annual basis.
- An eligible corporation may also claim a **refundable tax credit related to a new financial services corporation** that represents 40% of the eligible expenditures it pays during a taxation year included in this five-year period. This tax credit will be limited to $150,000 on an annual basis.

The activities of a new eligible corporation must consist of one or more of the following activities:

  - Analytical, research, management, advisory and securities trading services or securities distribution, carried out by certain securities dealers;
  - Securities advisory or securities management services provided by certain securities advisers.

The eligible corporation will have to demonstrate that the activities covered by the certificate consisted of delivering services to clients with whom it was at arm's length. No application for a certificate may be made after December 31, 2017.

An eligible corporation that obtains a qualification certificate after March 20, 2012 may receive these refundable tax credits in relation to an eligible expenditure or wage incurred after that day.

- A **five-year tax holiday will be granted to foreign specialists** employed by a new financial services corporation. A foreign specialist means an individual to whom the Minister of Finance has issued a certificate, who has a high level of expertise in the field of finance, and whose duties will focus on the carrying out of the activities stipulated for an eligible corporation. This holiday will last for five years, and the amount that an individual may deduct in calculating his taxable income during this five-year period will correspond to a percentage of his salary equal to 100% for the first and second years, 75% for the third year, 50% for the fourth year, and 25% for the fifth year. An individual may receive this tax holiday once he commences employment with an eligible corporation after March 20, 2012, under an employment contract entered into after that day.

- A **refundable tax credit pertaining to the diversification of markets of Quebec manufacturing companies** will be temporarily introduced. For this credit, an eligible corporation can benefit from a tax credit equal to 30% of the eligible certification expenses that it will incur for one or more eligible goods prior to selling them in markets outside Quebec. To benefit from the credit, an eligible corporation will have to obtain an eligibility certificate from Investissement Québec after March 20, 2012 but before January 1, 2016, and the total amount of the credit will be limited to $45,000.
- The **refundable resource tax credit** rates available to corporations that develop no mineral resource, oil or natural gas will be reduced by 10% for eligible expenses relating to mining resources, oil or natural gas. The tax credit available to such corporations regarding eligible expenses relating to other natural resources (such as cut stone) will be reduced by 5%. At the same time, for the above-described companies, an increase equivalent to the refundable tax credit for resources will be available for them in exchange for an option to the State to acquire an equity stake in the development. This option will be managed by Ressources Québec. These amendments will apply to eligible expenses incurred after December 31, 2013, but when eligible expenses incurred after January 1, 2014 are reasonably attributable to work carried out after December 31, 2013, these eligible expenses will be deemed incurred after that date.
- A new **eligible public research centre** will be recognized, namely the Institut national de santé publique du Québec. This recognition will apply for research and development carried out after December 31, 2011 under an eligible research contract concluded after that date.
- The government has introduced a **temporary refundable tax credit to foster the modernization of Quebec's tourist accommodations.** The credit will be granted to corporations that own a hotel establishment, a tourist home, a resort, a bed and breakfast establishment or youth hostel located in Quebec, outside the greater Montreal and greater Quebec City regions, and that, as of March 21, 2012 and until December 31, 2015, carry out renovation or improvement work on their establishment. The tax credit will be equal to 25% of the portion of eligible expenditures incurred in the year to carry out eligible work that exceeds $50,000. The credit will be limited to $175,000 per taxation year.
- Regional tourist associations (RTAs) that ask the government to impose a lodging tax within their territory will now be able to indicate whether they prefer a **lodging tax of $2 or $3 per overnight stay**, or a tax of 3% of the price of each overnight stay. RTAs where the specific tax of $2 or the *ad valorem* tax of 3% already applies will have to submit a new request to the government if they want this tax to be replaced by the $3 specific tax.

Measures concerning individuals

- Employees who benefit from **an inter-municipal public transportation service organized by their employer for a large number of their employees** are not required to include, in the calculation of their income from an office or employment, the value of the benefits relating to the use of such a service.
- As of January 1, 2013, the refundable tax credit for caring for seniors at home will become the **refundable tax credit for home-support services for seniors**; in addition, the cap on expenses eligible for this credit will be raised by $3,900 to $19,500 (dependent seniors), the rate of the tax credit will be gradually increased from 30% to 35%, i.e., by 1% per year until 2017, and the reduction to the credit based on family income will be eliminated for seniors recognized as dependent; furthermore, adjustments will be made to expenses that are eligible for the credit.
- As of the 2012 tax year, the amount granted in respect of the **refundable tax credit for informal caregivers of an elderly spouse** will be raised to $700 and will increase gradually thereafter by $75 each year, to $1,000 as of the 2016 taxation year. This credit will be automatically indexed each year as of January 1, 2017.
- A **refundable tax credit for costs incurred by seniors for a stay in a functional rehabilitation transition unit will be introduced** as of the 2012 tax year; this tax credit will be equal to 20% of the stay expenses the senior will have paid in the year of a stay in a functional rehabilitation transition unit.
- A **refundable tax credit for the purchase or rental of equipment to help seniors continue living independently at home will be introduced** as of the 2012 tax year. This credit will be equal to 20% of the portion, in excess of $500, of the total amount paid in the year for the purchase or rental, including

installation costs, of eligible equipment intended to be used in the individual's principal place of residence.

- To reflect new retirement savings vehicles that will constitute **voluntary retirement savings plans,** which Quebec wants to come into force on January 1, 2013, and **pooled registered pension plans** introduced in Bill C-25 tabled by the federal government on November 17, 2011, a series of amendments will be made to tax legislation and regulations.
- There will be **a reduction in the payroll contributions** for employers participating in the acquisition of shares of a labour fund. Specifically, the value of the benefit from amounts paid by an employer to acquire for the benefit of one of its employees a share or fraction of a share issued by the Fonds de solidarité FTQ or Fondaction will be excluded from the base wages of the employee. This change will apply to a share or a fraction of a share acquired after December 31, 2012.

Measures related to culture

- To encourage foreign film production in Quebec, the **existing deduction for foreign film workers** will be extended to new categories of non-resident individuals in key positions working on an eligible foreign film production. Moreover, no amount will be deducted or withheld at source on account of income tax regarding any payment for services provided in Quebec to these individuals. This measure will take effect for deductions and payments made after March 20, 2012.
- The existing enhanced 45% **tax credit for labour expenditures relating to Quebec film and television production** of French-language productions will be extended so that feature-length, medium and short animated films of fiction are eligible for the enhanced credit applicable to certain French-language productions, whether or not they are intended for young people. This measure will take effect for productions that are submitted for an advance ruling after March 20, 2012.
- To support the creation of musical comedies, the **cap on the tax credit for the production of performances** will be increased to $1.25 million for performances, one of whose three eligibility periods is not completed on March 20, 2012.
- The Minister will create a new temporary refundable **tax credit for the production of certain multimedia environments or events staged outside Quebec.** This will allow an eligible corporation to claim a refundable tax credit equal to 35% of eligible labour expenditures it incurs to carry out an eligible production. Labour costs may not exceed 50% of production costs, and the credit will be limited to $350,000. This is a temporary measure applicable to expenditures incurred between March 20, 2012 and January 1, 2016.

Measures fostering the capitalization of businesses

- A **new refundable tax credit of 30% of the costs of issuing shares as part of an initial public offering under the stock savings plan II** will be created**.** However, the eligible issuance costs cannot exceed the lesser of 15% of the gross proceeds of the share issuance or $3 million. An eligible corporation may receive this refundable tax credit for eligible issue expenses it incurs after March 20, 2012.
- To better adapt the investment restrictions imposed on the Fonds de solidarité FTQ to the capital requirements of Quebec companies and to enable the Fund to play a greater role in the economy, various amendments will be made to the *Act to establish the Fonds de solidarité des travailleurs du Québec,* including streamlining of the investment diversification requirement, recognition of investments made for high-value-added processing of wood, increased recognition of the major investments made by the Fund and a change to the calculation rules of the 60%.
- In addition, to facilitate the capitalization of Quebec's other labour fund, Fondaction, the Minister announced that **Fondaction's capitalization limit** will be gradually increased to $225 million in 2015. At that point, the limit will be eliminated and the tax credit granted to Fondaction investors will be reduced from 25% to 15%. This measure with take effect for investments made after March 20, 2012.

Measures related to cooperatives

- The budget introduces changes to certain terms and conditions of the Cooperative Investment Plan (Plan).

  The special tax relating to early redemption after March 20, 2012 will no longer be payable by the cooperative or federation of cooperatives in the case of block redemption or repayment of qualified securities in a winding up, but rather by the persons holding the securities immediately prior to their redemption or repayment and by the members of a partnership where the securities are held by such an entity, at a rate of 30%.

  The budget introduces the restriction that the payment of interest on preferred units issued under the Plan may be made only in money, after March 20, 2012.

  The budget introduces new restrictions on the type of investments that may be made by qualified shareholding workers cooperatives with amounts collected from its members, applicable to fiscal periods beginning after March 20, 2012.

  For calendar year 2012 and subsequent years, a modified adjustment formula will enable all **shareholding workers cooperatives,** regardless of their date of constitution, to apply a rate of 165% to the cost of their investments for the purposes of calculating the special tax on excess capitalization.

  For preferred units acquired after March 20, 2012, a preferred unit issued by a qualified cooperative may not be considered a qualifying security unless it is acquired for consideration consisting solely of money.

  The definition of the expression “qualified cooperative” is modified to correct perceived unfairness in the way that capitalization requirements are applied to work cooperatives and solidarity cooperatives. This amendment will apply to new applications as of March 21, 2012, and for existing applications that have not been decided prior to that date. For cooperatives that already hold an eligibility certificate as of this date, the amendment will apply as of 2013.
- Finally, the patronage dividend tax deferral mechanism will be renewed for an additional period of ten years.

Measures related to trusts

- The tax legislation will be amended so that the rate applicable for determining the tax payable by an *inter vivos* trust corresponds to the highest rate applicable for the calculation of the tax payable by an individual, i.e, 24%.
- An *inter vivos* trust that does not reside in Canada will be liable for Quebec tax on its property income derived from the rental of immovable properties located in Quebec at a rate of 5.3%. Such trusts will be required to file a tax return for each taxation year in which it owns such an immovable property. These amendments will apply to a taxation year ending March 20, 2012 or thereafter, and if the taxation year includes March 20, 2012, the tax will be accordingly prorated.
- As of March 20, 2012, an *inter vivos* trust that begins to reside in Canada will be deemed to dispose of, immediately before such time, each of its buildings used primarily for the purposes of earning income from the rental of immovable properties located in Quebec for proceeds of disposition equal to the fair market value of the immovable property at the time of disposition. As a result, the trust will be liable for Quebec tax on the taxable capital gain and the recaptured depreciation that may arise from the deemed disposition. The trust will be deemed to acquire, at the given time, the building in question at a cost equal to the proceeds of the disposition. Lastly, the trust will have to obtain a compliance certificate from Revenu Québec before disposing of such an immovable property, and the acquirer will have to obtain a compliance certificate or show that it has made a reasonable inquiry to ensure to ensure that the seller was not an *inter vivos* trust that began to reside in Canada, or risk being held responsible for the taxes payable as a result of this disposal.
- To facilitate Quebec companies’ initial access to public capital, the Minister will introduce a refundable tax credit of 30% of the eligible issue expenses that an eligible corporation incurs in an initial public offering under the existing stock savings plan II. However, eligible issue expenses may not exceed the lesser of: 15% of the gross proceeds of the issue of shares or $3 million. This is a temporary measure

which will take effect as of March 20, 2012 and end on December 31, 2014 when the stock savings plan II ends.

- The Minister announced various amendments to the *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)* in order to relax the investment standards imposed on the fund.
- In addition, to facilitate the capitalization of Quebec's other labour fund, Fondaction, the Minister announced that the fund's capitalization limit will be gradually increased to $225 million in 2015. At that point, the limit will be eliminated and the tax credit granted to Fondaction investors will be reduced from 25% to 15%. This measure with take effect for investments made after March 20, 2012.

Contacts

Canadian Managing Partner, Tax
Andrew W. Dunn
416-601-6227

National Tax Policy Leader
Albert Baker
416-643-8753

Quebec Central
Dominic Vendetti
450-978-3527

Montreal
Judith Bellehumeur
514-393-6512

Quebec & Regions
Denis de la Chevrotière
819-797-7419

1, Place Ville-Marie, bureau 3000
Montreal (Québec) H3B 4T9 Canada