

THE MINISTÈRE DU  
REVENU DU QUÉBEC  
AND THE  
APPLICATION OF THE  
Act to foster the  
development of  
manpower training

**Information for  
employers**

Québec 

The information in this brochure does not constitute a legal interpretation of the provisions of the Taxation Act, the Act to foster the development of manpower training or any other legislation. For further information, contact the office of the Ministère du Revenu du Québec in your area.

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# INTRODUCTION

## Contents of the guide

This publication contains information to help employers better understand certain aspects of the Act to foster the development of manpower training. It deals generally with those aspects of the Act that refer to tax concepts or that pertain to the return that must be sent by employers to the Ministère du Revenu du Québec.

The reference provided at the end of certain paragraphs indicates the relevant legislation. A complete list of references is given on page 35.

## Guidelines pertaining to the Act to foster the development of manpower training

The Act to foster the development of manpower training, which was passed on June 22, 1995, is intended to improve labour qualifications and thereby foster employment, labour adjustment, integration into the work force and labour mobility. Employers whose total payroll for a given year exceeds the amount set by regulation (these amounts are given below) are subject to the Act and are required to participate in the development of worker training by allotting for that purpose an amount representing at least 1% of their total payroll.

Although the Act to foster the development of manpower training came into effect on January 1, 1996, it will be implemented gradually over a three-year period in order to give smaller employers the time they need to plan their investment in training. The date on which an employer becomes subject to the Act depends on the employer's total payroll.

<b>Employer's total payroll</b>	<b>Date on which the employer becomes subject to the Act</b>
Over \$1,000,000	January 1, 1996
Over \$500,000	January 1, 1997
Over \$250,000	January 1, 1998

Where the amount of an employer's eligible training expenditures corresponds to less than the minimum amount of participation provided for under the Act, the employer must make a contribution to the Fonds national de formation de la main-d'oeuvre (called "the Fund"). The contribution, equal to the difference between the minimum amount and eligible training expenditures, is made to the Minister of Revenue. The Minister remits the contribution to the Société québécoise de développement de la main-d'oeuvre (SQDM) and the SQDM then transfers the sum to the Fund. Information regarding payment of this contribution is provided on page 19.

The SQDM is authorized to determine eligible training expenditures, by regulation approved by the government, and to administer the Fund. The Ministère du Revenu du Québec is responsible for receiving and verifying returns filed by employers with respect to total payroll, total eligible expenditures and, where applicable, the contribution to the Fonds national de formation de la main-d'oeuvre.

## TOTAL PAYROLL FOR THE PURPOSES OF DETERMINING LIABILITY UNDER THE ACT AND THE EMPLOYER'S MINIMUM PARTICIPATION IN WORKER TRAINING

The employer's total payroll is used for two purposes under the Act to foster the development of manpower training: it is used to determine whether the employer is subject to the Act and, where applicable, to determine the minimum amount that the employer must allot to the development of worker training.

An employer's total payroll is composed of the salaries and wages paid respecting employees. Total payroll reported for the purposes of the Act to foster the development of manpower training corresponds generally to the amount used to calculate the contribution to the health services fund (formerly the Québec health insurance plan). However, there are certain differences between total payroll for the purposes of the contribution to the health services fund and total payroll established for the purposes of the Act to foster the development of manpower training.

- For the purposes of the application of the Act to foster the development of manpower training,
    - total payroll includes only salaries and wages paid to persons working for the employer during the calendar year concerned;
    - total payroll includes the following amounts:
      - (i) the salary or wages paid to an employee of an international financial centre, and
      - (ii) the salary or wages paid to an employee posted to Québec by an employer in a foreign country, where the employee is covered under a social security agreement between the other country and Québec.
- ARAMQ, s. 33
- The following amount is subject to the contribution to the health services fund: the salary or wages paid to an employee who is posted to a foreign country by an employer who has an establishment in Québec, where the employee is covered by an

agreement on social security providing for the reciprocal coverage of health insurance plans, and where, under the agreement, the employee is subject to Québec legislation only. ARAMQ, s. 34.0.2

- The SQDM may, by regulation, exclude from total payroll the salaries or wages paid by businesses that have been exempted from participation in the development of worker training. (It should be noted that such a regulation has not yet been passed.) AFDMT, s. 4
- The Act to foster the development of manpower training does not contain the broad definition of the term “employer” provided in the Act respecting the Régie de l’assurance-maladie du Québec. For the purposes of the contribution to the health services fund, an “employer” is a person who pays “salary or wages” as defined for the purposes of the Taxation Act. Within the meaning of the Taxation Act, an amount may be considered salary or wages even if it is not paid to an employee. Under section 34.0.1 of the Act respecting the Régie de l’assurance-maladie du Québec, the person to whom the wages are paid is, in certain situations, deemed to be the employee of the payer. However, such a provision does not exist in the Act to foster the development of manpower training.

Total payroll subject to the Act to foster the development of manpower training generally corresponds to the total amount indicated in box A (employment income before source deductions) and box Q (deferred salary or wages) of all the Relevé 1 slips issued by the employer to employees.

## “Salary or wages” for the purposes of calculating total payroll

As was previously stated, under the Act to foster the development of manpower training, total payroll is composed of the salary or wages paid respecting employees. “Salary or wages” means all remuneration relating to an office or employment and includes vacation pay, gratuities, incentive bonuses, commissions, tips, directors’ fees, salary or wages deemed to have been paid in the case of a market-maker (a clearing member who is registered with the Commission des valeurs mobilières du Québec and trades on the Montreal



Exchange), taxable benefits paid in cash or in kind to an employee (examples of taxable benefits are provided further on in the text) and any similar amounts paid to an employee during the calendar year concerned. It should be noted that total payroll does not include the employer's contribution to a pension plan.

Total payroll corresponds to the salaries and wages before any deduction. For the purposes of the Act to foster the development of manpower training, "salary or wages an employer pays or paid" means the salary or wages that an employer pays, allocates, grants or awards (or has paid, allocated, granted or awarded).

### *Deferred salary or wages*

For the purposes of calculating total payroll, "salary or wages" also includes deferred salary or wages. Therefore, an amount paid by an employer to a trustee or custodian in respect of an employee, under a profit-sharing plan, an employee trust or an employee benefit plan, is also considered salary or wages at the time that the amount is paid to the trustee or custodian.

### *Sabbatical leave*

Amounts paid to an employee who is on sabbatical leave (other than amounts considered to have been paid under a salary deferral arrangement or an employee benefit plan) are included in the calculation of total payroll, for the purposes of the application of the Act to foster the development of manpower training, for the year in which these amounts are paid.

### *Stock options*

For the purposes of calculating total payroll, "salary or wages" also includes the value of the benefits deemed to have been received by an employee who acquires stock under an agreement whereby a given corporation agrees to sell or issue shares of its capital stock to its employees.

### *Contributions paid to a multi-employer insurance plan*

With respect to a multi-employer insurance plan, the following amount must be included in an employee's income from an office or employment: the portion of the contributions (and of the related tax on insurance premiums) paid by the employer to the plan administrator that is attributable to coverage received by an employee, respecting the work he or she carries out, under a plan providing

insurance of persons (other than coverage respecting the total or partial loss of income from an office or employment).

### *Taxable benefits*

Taxable benefits paid by the employer must be treated as salary or wages. Taxable benefits include

- the “stand-by charge” and the operating-costs benefit respecting an automobile made available to an employee by the employer;
- the value of the benefit related to a parking space provided by the employer;
- the value of the benefit related to the use, for personal purposes, of an automobile (other than one made available to an employee);
- a non-reasonable allowance respecting the use of a motor vehicle;
- the value of any meals and accommodation;
- gifts and expense-paid pleasure trips;
- tuition fees reimbursed to an employee, and scholarships, bursaries and fellowships;
- travel expenses paid with respect to the spouse of an employee;
- benefits received by an employee with respect to contributions, paid in the employee’s regard by his or her employer, under a private health services plan;
- benefits received by an employee with respect to the payment of a premium by the employer under certain insurance plans;
- certain premiums paid under non-group insurance plans;
- interest-free or low-interest loans provided to an employee or related person;
- the value of a remission of debt.

For more information on the above benefits, consult the *Guide for Employers* (TP-1015.G-V) and the *Relevé 1 Guide* (RL-1.G-V).

## Employers

As a rule, the employer is a legal person established for a private interest (for example, a corporation) or a legal person established in the public interest (for example, a Crown corporation) under whose direction or supervision the employee carries out work for remuneration. The employer may also be a natural person.

A partnership, although it is constituted by its members, is also the employer of those in its service. Similarly, an association or a cooperative is made up of members, but may also be an employer.

In the case of a group of corporations that are associated (in the fiscal sense), each of the corporations is considered to be a separate employer for the purposes of section 3 of the Act to foster the development of manpower training; ownership does not in any way determine who is the employer.

The employer is therefore determined on the basis of his or her relationship with employees.

### *Examples*

Corporation A has two divisions. In this case, corporation A is the sole employer of the employees working at its two divisions. The corporation's total payroll includes the salary or wages paid to the employees of these two divisions.

Corporation B has two subsidiaries (subsidiary C and subsidiary D), each of which is incorporated. Since it is the legal status of each entity and not ownership that determines the employer in such a case, each of the following is a separate employer:

- Corporation B is the employer of its own employees.
- Incorporated subsidiary C is the employer of its own employees.
- Incorporated subsidiary D is the employer of its own employees.

### *Divisions or establishments*

An employer may have several divisions or establishments. In cases where, for administrative reasons, the divisions or establishments have different identification numbers, the numbers have a common base; this enables the Ministère du Revenu to add up all the amounts representing the employer's total payroll.

## Meaning of “employee” for the purposes of calculating total payroll

For the purposes of calculating total payroll, the term “employee” means an employee within the meaning of the Taxation Act (that is, any person employed or holding an office) who reports for work at an establishment of the employer in Québec or (if the employee is not required to report for work at an establishment of the employer) to whom a salary or wages are paid by such an establishment in Québec.

AFDMT, Schedule, s. 2; TA, s. 1

The terms “employment” and “office” are also defined in the Taxation Act.

- “Employment” means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign.
- “Office” means the position the individual holds and that entitles him or her to a fixed or ascertainable stipend or remuneration. “Office” includes the following: a judicial office; the office of a Minister of the Crown; the office of a member of a legislative assembly, a member of the Senate or House of Commons of Canada, or a member of an executive council; any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity; and the position of a corporation director.

TA, s. 1

The term “establishment” has the meaning provided for in the Taxation Act. An establishment of a taxpayer means a “fixed place where he carries on business or, if there is no such place, his main place of business. An establishment also includes an office, a branch, mine, oil or gas well, farm, woodland, factory, warehouse or workshop.”

AFDMT, Schedule, s. 2; TA, s. 12

Pursuant to the Taxation Act, a corporation has an establishment in each province of Canada in which it owns an immovable used primarily for the purpose of earning or producing a gross income that is rent. In specific situations, there is presumption of an establishment.

TA, ss. 12 to 16.1

Special rules are provided respecting cases in which an employee reports for work both at an establishment of the employer in Québec and at an establishment of the employer outside Québec. Therefore, if, during a pay period, an employee reports for work both at an establishment of the employer in Québec and at an establishment of the employer outside Québec, all regular remuneration paid to the employee is included in the calculation of total payroll. However, if, during that pay period, the employee reports for work primarily at the establishment of the employer outside Québec, no part of the employee's remuneration for this pay period is to be included in the total payroll.

If an employee receives remuneration other than his or her regular salary or wages (that is, a bonus, a retroactive pay increase, vacation pay, or remuneration that is not related to a regular pay period), the remuneration is included in the calculation of total payroll, under the Schedule to the Act to foster the development of manpower training, as long as the amount is paid to an employee who usually reports for work at an establishment of the employer in Québec.

AFDMT, Schedule, s.2

Furthermore, a person is not required to work a minimum number of hours to be considered an employee. An employment relationship exists if a person is an employee within the meaning of the Taxation Act.

Owners of incorporated businesses are considered employees within the meaning of the Act to foster the development of manpower training if they receive a salary from the businesses.

## Meaning of “employee” for the purposes of calculating eligible training expenditures

The Act to foster the development of manpower training provides for expenditures made by the employer for the benefit of personnel. The Regulation respecting eligible training expenditures states that the term “employee,” as used in this regulation, has the meaning provided for in the Schedule to the Act to foster the development of manpower training. Therefore, an employee may be a manager, professional, technician or member of the support staff, or may belong to any other category of employees.

RETE, s. 7, para. (2)

## Meaning of “salary or wages” for the purposes of calculating eligible training expenditures

An employer may report as an eligible training expenditure the salary or wages paid to an employee. “Salary or wages” does not have the same meaning for the purposes of calculating eligible training expenditures as it does for the purposes of calculating total payroll.

For the purposes of calculating eligible training expenditures, “salary or wages” means the basic amount of remuneration that the employee must report (including incentive bonuses, premiums and overtime compensation, where applicable). “Salary or wages” does not include directors’ fees or the taxable benefits listed previously. Nor does it include the employer’s contribution to the Québec Pension Plan, the Canada Pension Plan, employment insurance premiums or similar contributions.

### *Commissions*

Commissions may be considered eligible training expenditures only if they are related to an eligible training activity (in accordance with the Regulation respecting eligible training expenditures). This means that, with the exception of certain apprentices or trainees, there are few situations in which a commission may be considered an eligible expenditure.

Furthermore, where an amount is paid by the employer to the employee to compensate the employee for commissions lost while

participating in an eligible training activity, the amount must be treated as a bonus paid with respect to the training.

Where the employment contract stipulates that the employer must pay the employee a set minimum amount each pay period as a “commission,” this minimum amount is treated as salary or wages. Such an amount is not considered a commission because its payment is not conditional on the sale of property or services. A distinction must also be made between the payment of such an amount and the payment of advances on commissions.

### *Premiums*

There are two types of premiums: premiums paid to the employee specifically for a training activity and premiums paid to the employee during a given period respecting his or her general performance.

Where the premium is paid to an employee for an eligible training activity (for example, because the employee participated in the activity or because he or she met with distinction all of the training objectives), the entire amount of the premium may be added to eligible salary or wages. The employer must be able to prove that the premium was paid specifically for this activity.

Where the premium is a paid respecting an employee’s performance during a particular period, the employer may add to the eligible salary or wages the portion that corresponds to the total of this type of premium paid to the employee during the calendar year, divided by 1950.

### *Vacation pay, sick leave and legal holidays*

Amounts paid as holiday benefits (vacation pay, sick leave, legal holidays) cannot be included in eligible salaries and wages. For example, suppose that an employee participates in an eligible training activity for an entire month, and that the employee’s contract stipulates that five-sixths of a day of vacation time are accumulated for each month worked. The employer cannot include in eligible salaries and wages the amount that will be (or was) paid to the employee when the employee uses (or used) the five-sixths of a day of vacation time.

As well, the employer cannot increase the eligible salary and wages by a percentage corresponding to the vacation pay, sick leave and legal holidays to which the employee is entitled.

In other words, for the purposes of calculating eligible training expenditures, “salary or wages” is the amount entered in box A of the Relevé 1 slip issued by the employer, minus directors’ fees and any of the taxable benefits referred to previously.

The employer may report, as an eligible training expenditure, the salary or wages paid to an employee who participates in an eligible activity. To determine the amount, the employer multiplies the hourly rate by the number of hours of training.

In most cases, the employer is able to calculate the hourly rate of an employee’s salary or wages on the basis of the employee’s regular working hours. However, it is impossible for the employer to calculate an hourly rate for certain employees who do not have fixed working hours (managers, for example). In such cases, the hourly rate is determined by dividing the annual salary by 1950; this is the equivalent of 52 weeks of 37 1/2 hours.

RETE, s. 7, para. (6)



## CONTRIBUTION TO THE FONDS NATIONAL DE FORMATION DE LA MAIN-D'OEUVRE

The Ministère du Revenu is responsible for the application of Division II of Chapter II of the Act to foster the development of manpower training. Division II contains the rules relative to the payment of the contribution to the Fonds national de formation de la main-d'oeuvre (called “the Fund”).

### Payment of the contribution to the fund

Where the amount of an employer's eligible training expenditures is less than the minimum amount of participation provided for under the Act, the employer must make a contribution to the Fund equal to the difference between the amount of eligible training expenditures and 1% of the employer's total payroll. The contribution must be made respecting the remuneration paid by the employer in the year. The contribution for a given year must be enclosed with form RLZ-1.S-V, *Summary of Source Deductions and Employer Contributions*, and sent to the Ministère by the last day of February of the year following the year concerned. If you ceased your business activities during the year, consult page 32.

AFDMT, ss. 14 and 15

As total training expenditures must be taken into account in determining the amount of the contribution to the Fund, the Ministère du Revenu may verify these expenditures, in accordance with the Regulation respecting eligible training expenditures. The Minister of Revenue may consult the Société québécoise de développement de la main-d'oeuvre (SQDM) in order to determine the eligibility of a training expenditure.

AFDMT, s. 17

The Ministère du Revenu collects the contribution to the Fund and, after deduction of the applicable collection costs, remits the contribution to the SQDM. The SQDM then transfers the sum to the Fund.

AFDMT, s. 18

## Certificate

An employer may request that the SQDM review a proposed training activity and issue a certificate attesting that the activity, and related training expenditures, are eligible.

AFDMT, s. 23

The Ministère du Revenu does not question the eligibility of a training activity if a certificate has been issued by the SQDM with regard to the activity. The Ministère may, however, verify the expenditures relative to the training activity (amount spent, determination of the expenditure in accordance with the rules provided for in section 7 of the Regulation respecting eligible training expenditures, etc.).

## Reporting total payroll

Employers subject to the Act to foster the development of manpower training must report annually, on the prescribed form (*Summary of Source Deductions and Employer Contributions*), the total payroll to be used to calculate their minimum participation in the development of worker training and their eligible training expenditures. Employers are required to report total payroll, total eligible training expenditures and, where applicable, the contribution payable to the Fonds national de formation de la main-d'oeuvre.

AFDMT, s. 16

Employers must keep a register containing general information about the participation of employees in a training activity. The information may be stored on magnetic media. Employers are not required to submit the register annually to the Ministère du Revenu, but must keep the register and be able to produce it at the request of the Ministère (for example, in the event of an audit). Employers must also keep certain supporting documents, such as vouchers concerning eligible training expenditures, the training plan or human resources development plan, and contracts signed with recognized educational institutions, training bodies, etc. The registers and supporting documents relevant to training expenditures must be kept for six years after the last year to which they pertain.

RETE, ss. 2, 4, 5, 6

## New fiscal law

Division II of Chapter II of the Act to foster the development of manpower training (the Division providing for payment of the contribution to the Fonds national de formation de la main-d'oeuvre) is a fiscal law within the meaning of the Act respecting the Ministère du Revenu. The contribution is therefore covered by the provisions of the Act respecting the Ministère du Revenu relative to the administration and enforcement of fiscal laws (assessments, objections, recovery, payments, interest, refunds, audits, etc.), as well as those relative to penal provisions, proof and procedure.

AFDMT, s. 19



## ANNUAL DEPRECIATION COST

A capital expenditure may be considered an eligible training expenditure. Therefore, expenditures incurred to acquire equipment or to acquire, build or organize premises are eligible training expenditures, up to the annual depreciation cost calculated in accordance with the regulations of the Société québécoise de développement de la main-d'oeuvre (SQDM) provided the premises are used exclusively for the training of personnel, including apprentices or trainees, or are used to carry out a training plan accredited by the SQDM.

AFDMT, s. 10

Expenditures incurred to acquire equipment or to acquire, build or organize premises may also be eligible even when the premises are not used exclusively for the aforementioned purposes, in the situations and to the extent determined by the regulations of the SQDM.

The term “personnel” is used here to refer to employees who report for work at an establishment of the employer in Québec or (if the employees are not required to report for work at an establishment of the employer) employees who are paid a salary or wages by such an establishment in Québec.

AFDMT, Schedule, s. 2

Pursuant to the second paragraph of section 10 of the Act to foster the development of manpower training, section 1 of the Regulation respecting eligible training expenditures provides for two situations where training expenditures calculated for the purposes of the annual depreciation cost may be considered eligible training expenditures when incurred with regard to property not used exclusively for the training of the employer's personnel. These are situations where the material or equipment is loaned to certain organizations (subparagraph (20), first paragraph of section 1) and where the equipment or premises are used exclusively for training the personnel of two or more employers (subparagraph (22), first paragraph of section 1).

### Calculation of the annual depreciation cost

From an accountant's point of view, “depreciation” is an annual charge applied against income in order to distribute, in a systematic

and rational manner, the cost of certain property (buildings and equipment), minus the salvage value or residual value, over the estimated useful life of the property.

The general rules for calculating the annual depreciation cost apply both to the property described in the first paragraph of section 10 of the Act to foster the development of manpower training and to the property described in subparagraphs (20) and (22) of the first paragraph of section 1 of the Regulation respecting eligible training expenditures, subject to the additional presumptions referred to in paragraphs (9) and (10) of section 7 of the Regulation.

RETE, Schedule 1

For the purposes of the first paragraph of section 10 of the Act to foster the development of manpower training and paragraphs (9) and (10) of the first paragraph of section 7 of the Regulation respecting eligible training expenditures, the annual depreciation cost corresponds to the amount that would be deductible under paragraph (a) of section 130 of the Taxation Act if the undepreciated capital cost of the depreciable property of a given class corresponded to the undepreciated capital cost (UCC) under certain special rules described in the Schedule to the Regulation<sup>1</sup>.

RETE, Schedule 1

As a rule, the amount of depreciation giving entitlement to an income tax deduction is determined by multiplying the undepreciated capital cost of the property by the capital cost allowance (CCA) rate applicable to that class of property. A list of classes of property is given in Schedule B of the Regulation respecting the Taxation Act; section 130R6 of the Regulation specifies the CCA rate for each class of property.

Schedule 1 of the Regulation respecting eligible training expenditures uses the rules applicable to the calculation of capital cost

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1. The following sections of the Taxation Act are used to determine UCC and the annual depreciation cost:
    - section 93, which contains definitions of “disposition of property,” “total depreciation,” “depreciable property,” “undepreciated capital cost” and “proceeds of disposition”;
    - sections 93.6 through 93.10, respecting property available for use;
    - section 101, pertaining to the capital cost of property acquired with government assistance;
    - sections 101.3 and 101.4, regarding investment tax credits and government assistance deemed received by a trust or a corporation for the purposes of UCC reduction.

allowance for income tax purposes, and adapts these rules to the context of the Act to foster the development of manpower training. The discretionary nature is maintained.

Therefore, the classes of property and capital cost allowance rates that are set out in the Regulation respecting the Taxation Act and used to calculate the capital cost allowance for income tax purposes are also valid for the calculation of the annual depreciation cost under the Act to foster the development of manpower training. Most of the rules pertaining to capital cost allowance (for example, the half-rate rule applicable in the year of purchase) also apply.

It should be noted that the calculation of capital cost allowance (for income tax purposes) and the calculation of the annual depreciation cost (for the purposes of the Act to foster the development of manpower training) are entirely different operations. The decision to claim capital cost allowance for income tax purposes does not in itself have any incidence on the annual depreciation cost, and the decision to claim the annual depreciation cost as an eligible training expenditure under the Act to foster the development of manpower training does not have any incidence on capital cost allowance.

The undepreciated capital cost, at a given time, of a class of depreciable property<sup>2</sup> used exclusively for the training of the employer's personnel is the amount by which the aggregate<sup>3</sup> of

- (i) the capital cost<sup>4</sup> to the employer of depreciable property acquired in this class prior to this time, and

2. Regulation respecting eligible training expenditures, paragraph (2) of section 1 of Schedule 1.
3. Two subparagraphs providing for the inclusion of amounts in the UCC used for the purpose of calculating income tax do not apply for the purposes of Schedule 1: these are the provisions pertaining to the recapture of CCA and the reimbursement of non-government assistance respecting which an election was made under section 101.6 of the Taxation Act (subparagraphs (ii) and (ii.2) of the definition of "undepreciable capital cost" given in section 93 of the Taxation Act. These subparagraphs are rendered nonapplicable under paragraph 5 of section 1 of Schedule 1).
4. "Deemed capital cost" may be used in the calculation of UCC only in the situations described in paragraphs (3), (7) and (8) of section 1 of Schedule 1, and the situation provided for in section 101 of the Taxation Act that is rendered applicable by the introductory passage of section 1 of Schedule 1. In all other cases, the capital cost of depreciable property for the purposes of Schedule 1 corresponds generally to the cost of the property to the employer. Provisions of the Taxation Act regarding deemed capital cost (change of control, transaction between persons not dealing at arm's length) with respect to the depreciable property of a taxpayer do not apply for the purposes of Schedule 1).

- (ii) the amount of any assistance respecting depreciable property in this class that the employer reimbursed, as required, after the disposition of the depreciable property and that would have been included in the calculation of the capital cost of the property, under section 101 of the Taxation Act,<sup>5</sup> if the reimbursement had been made prior to the disposition of the property;

**exceeds the aggregate of**

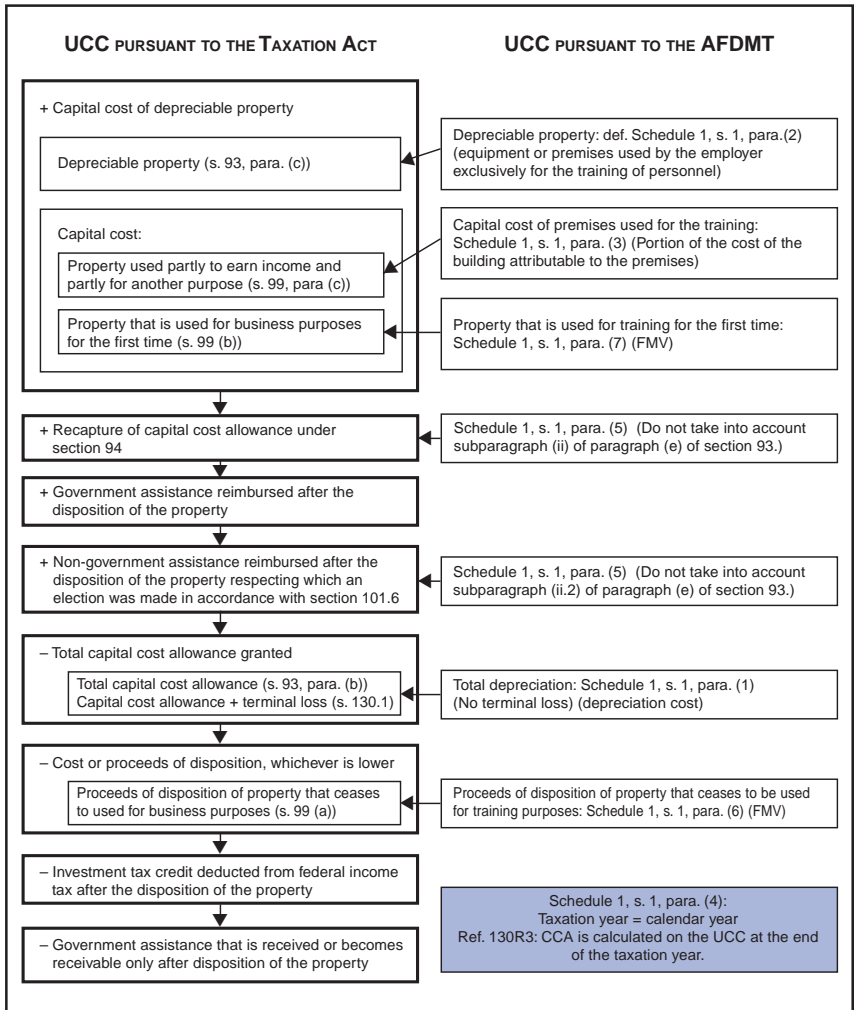
- (iii) the total depreciation<sup>6</sup> granted to the employer prior to this time with respect to property in this class;
- (iv) the lower of (a) or (b):
  - (a) the proceeds of disposition<sup>7</sup> of the property, minus all of the expenses the employer paid or incurred respecting the disposition,
  - (b) the capital cost of the property (if the employer disposed of property in this class prior to this time);
- (v) the amount of any assistance respecting depreciable property in this class or the acquisition of such property that the taxpayer received or was entitled to receive prior to this time and after the disposition of the property, and that would have been included, under section 101 of the Taxation Act, in the amount of assistance that the taxpayer received or was entitled to receive, if the amount had been received prior to the disposition of the property; and

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- 5. This section is applicable under the introductory passage of section 1 of Schedule 1 of the Regulation respecting eligible training expenditures.
  - 6. The total depreciation an employer may claim prior to a given time with respect to property of a prescribed class is the total amount included as such by the employer in calculating the minimum participation in the development of worker training for a calendar year ended before that time (paragraph (1) of section 1 of Schedule 1). In contrast to the rules respecting capital cost allowance for income tax purposes, the Regulation contains no provision respecting depreciation deemed to have been claimed by the employer.
  - 7. The only presumptions of disposition and proceeds of disposition applicable to UCC are provided for in paragraph (6) of section 1 of Schedule 1. The provisions of the Taxation Act regarding deemed dispositions and deemed proceeds of disposition (change of control, transactions between persons not dealing at arm's length, etc.) with respect to depreciable property do not apply for the purposes of Schedule 1. However, the definitions of "disposition" and "proceeds of disposition," provided for in section 93 of the Taxation Act, are applicable to Schedule 1 (see the introductory passage of section 1).



- (vi) the amount deducted as an investment credit under the Income Tax Act (Statutes of Canada) for a year ending prior to this time and after the disposition of the property.

The following table illustrates the differences between the calculation of UCC under paragraph (e) of section 93 of the Taxation Act and the calculation of the annual depreciation cost for the purposes of the Act to foster the development of manpower training.



## Change of use

For the purposes of calculating UCC, where an employer acquires property exclusively for the training of personnel but subsequently uses the property for another purpose, the property is deemed to have been disposed of at its fair market value at the time of the change in use. Where an employer initially acquires property for a purpose other than the training of personnel and subsequently uses it exclusively for the training of personnel, the property is deemed to have been acquired at its fair market value at the time of the change in use.

RETE, Schedule 1, s.1, para. (6) and (7)

## Property used exclusively in the training of the employer's personnel before the employer becomes subject to the Act to foster the development of manpower training

If the property is acquired or deemed acquired in the year preceding the year in which the employer becomes subject to the Act to foster the development of manpower training, the employer must begin calculating the annual depreciation cost in accordance with the rules described above.

AFDMT, s. 11, 2nd para.

If the property is acquired or deemed acquired in a year prior to the year preceding the year in which the employer becomes subject to the Act, a special rule is provided for. Further to the rule, the property is deemed to have been acquired at a capital cost equal to the fair market value of the property at the end of the year preceding the year when the employer becomes subject to the Act. The half-rate rule does not apply in the calculation of the annual depreciation cost respecting the year prior to the year in which the employer becomes subject to the Act.

RETE, Schedule 1, s. 1, para. (8)

## Terminal loss

Unlike the Taxation Act, the Regulation respecting eligible training expenditures makes no provision for a "terminal loss." An employer who has no property remaining in a given class cannot deduct an annual depreciation cost respecting the class because, in accor-

dance with 130.1 of the Taxation Act, there is no amount giving entitlement to a deduction under section 130 of the Taxation Act. However, if there is a balance remaining in the class, it can be used to increase the annual depreciation cost in a subsequent year if the employer acquires other depreciable property in the class at a later date.

### *Example*

Employer A is subject to the Act to foster the development of manpower training in 1996. In 1995, he acquired, for \$10,000, property included in class 10 (the CCA rate applicable to that class is 30%). The property in question is the only property employer A owns in class 10. For 1995, employer A calculated an annual depreciation cost of \$1,500 with respect to property in class 10 (that is,  $\$10,000 \times 30\% \times 1/2$ ). In 1996, he disposes of the property for \$6,000. He cannot use the balance (\$2,500) as the basis for calculating the annual depreciation cost for 1996. In 1997, however, the employer acquires property, included in class 10, for \$8,000. The annual depreciation cost for 1997 will be calculated on UCC of \$10,500 (that is,  $\$2,500 + \$8,000$ ).

## **Recapture of CCA**

Where the total of the proceeds of disposition of property in a given class and the capital cost allowance (CCA) claimed respecting the property exceeds the capital cost of the property, the excess amount must be included in the calculation of income. This inclusion is referred to as recapture of CCA (or recapture of depreciation).

No such provision is made in the Act to foster the development of manpower training. However, in the event of the recapture of CCA at the end of the year, the employer cannot deduct the annual depreciation cost respecting that class of property because there is no UCC. The employer can begin deducting an annual depreciation cost respecting that class of property only if new property is acquired in the class and UCC is generated.

## **Property used to train the personnel of two or more employers**

The annual depreciation cost of an employer's equipment or premises used exclusively for training the personnel of two or more employers constitutes an eligible training expenditure. The annual

depreciation cost corresponds to the amount that would be determined under Schedule 1 if the property were used during the year exclusively for training the employer's personnel and if that property constituted a separate class, represented by the ratio of the number of person-hours during which the property was used in the year by the employer's personnel to the total number of person-hours during which the property was used in the year.

RETE, s. 1, subpara.(22) and s. 7, para. (10)

*Example*

Employer A was subject to the Act to foster the development of manpower training in 1996. In 1995, he acquired, at the cost of \$250,000 each, two identical pieces of high-tech equipment included in class 10 (the CCA rate applicable to that class is 30%). The equipment has been used exclusively since its acquisition to train the employees of employer A as well as the employees of employers B, C and D. The use made by each employer is itemized below, according to person-hours and use by unit for 1995, 1996 and 1997:

1995			1996		1997		
	A	B, C, D	B, C, D			A	B, C, D
Machine 1:	800	-	Machine 1:	650	Machine 1:	800	300
Machine 2:	-	800	Machine 2:	700	Machine 2:	200	500

	CLASS	DESCRIP.	BALANCE	ACQUIS.	DEP. COST	BALANCE
1995	10	Machine 1	-	\$250,000	\$37,500 <sup>1</sup>	\$212,500
	10	Machine 2	-	\$250,000	- <sup>2</sup>	\$250,000
1996	10	Machine 1	\$212,500		-	\$212,500
	10	Machine 2	\$250,000		-	\$250,000
1997	10	Machine 1	\$212,500		\$46,364 <sup>3</sup>	\$166,136
	10	Machine 2	\$250,000		\$21,429 <sup>4</sup>	\$228,571

1.  $\$250,000 \times 30\% \times 1/2 \times 800/800$
2. Machine 2 is capitalized for 1995 since it was used in that year by several employers. Employer A cannot, however, claim any depreciation cost in this respect because he did not use it himself in 1995.
3.  $\$212,500 \times 30\% \times 800/1,100$
4.  $\$250,000 \times 30\% \times 200/700$

## Property that is loaned

The annual depreciation cost of equipment or premises loaned by an employer to certain training organizations constitutes an eligible training expenditure. This depreciation cost corresponds to the amount that would be determined under Schedule 1, if the property were used during the year exclusively for training the employer's personnel, if the property constituted a separate class and if the capital cost of the property corresponded to its fair market value at the time it was loaned, as represented by the ratio of the number of days (in the year) for which the property was loaned to 365 days.

RETE, s. 1, subpara. (20) and s. 7, para. (9)

### *Example*

An employer subject to the Act to foster the development of manpower training loans premises to a training organization for a period of 153 days (from March 1 to July 31). The premises loaned cover 20% of the total surface area of a building whose fair market value (FMV) is \$400,000 at the time of the loan. Through simultaneous application of paragraph 3 of section 1 of the Schedule to the Regulation and paragraph (9) of section 7 of the Regulation, the capital cost of the premises is determined as follows:

$$20\% \times \$400,000 = \$80,000.$$

The maximum depreciation cost is \$671, that is,  
 $\$80,000 \times 4\%$  (property in class 1)  $\times 153/365 \times 1/2$ .

The end of the loan is equivalent to the disposition of the property that constitutes a separate class. Therefore, if the property is subsequently loaned again, a new class must be opened in order to take into account the fair market value of the building at the time of the new loan.

## WINDING-UP OR AMALGAMATION OF CORPORATIONS

If at the time the corporation is wound up its total payroll exceeds the amount set in the Regulation respecting the determination of total payroll, the corporation is subject to the Act to foster the development of manpower training and must show that the eligible training expenditures it made were equal to 1% of its total payroll at the time it was wound up. If the corporation cannot show that it made such expenditures, it must pay, as a contribution to the Fonds national de formation de la main-d'oeuvre, the difference between the amount corresponding to 1% of its total payroll and the amount actually spent on eligible training expenditures. The corporation must pay the contribution to the Ministère du Revenu within 30 days after the date on which it is wound up, at the same time it files form RLZ-1.S-V, *Summary of Source Deductions and Employer Contributions*.

The same rule applies to a corporation that is first acquired by another corporation and then wound up. If the corporation being wound up made eligible training expenditures that exceeded 1% of its total payroll prior to the winding-up, the excess amount cannot be credited to the corporation making the acquisition.

In the event of the amalgamation of two or more corporations, the total payroll and the eligible training expenditures, where applicable, are attributed to the account of the new entity resulting from the amalgamation. It is therefore the new corporation that is subject to the Act.

### Cessation of business activities

Employers who cease to operate their business must contact the Ministère du Revenu to obtain a copy of form RLZ-1.S-V, *Summary of Source Deductions and Employer Contributions*. The form must be filed with the Ministère within 30 days after the business ceases its operations.

The contribution to the Fonds national de formation de la main-d'oeuvre must be paid, where applicable, within 30 days after cessation of business operations. The contribution must be submitted at the same time as the *Summary of Source Deductions and Employer Contributions*.





## REFERENCES

- AFDMT: Act to foster the development of manpower training, S.Q., 1995, c. 43
- AMR: Act respecting the Ministère du Revenu, R.S.Q., c. M-31
- AQPP: Act respecting the Québec Pension Plan, R.S.Q., c. R-9
- ARAMQ: Act respecting the Régie de l'assurance-maladie du Québec, R.S.Q., c. R-5
- RETE: Regulation respecting eligible training expenditures, O.C. 1586-95, December 6, 1995 (1995) 127 G.O. II5311
- TA: Taxation Act, R.S.Q., c. I-3

## For further information concerning the application of the Act to foster the development of manpower training

For information pertaining to the application of the Act to foster the development of manpower training (for example, information pertaining to liability under the Act, total payroll, the definitions of “employer” and “employee,” minimum participation in the development of worker training, and the amount you are required to pay), call the office of the Ministère in your area. You should also contact the Ministère for information regarding form RLZ-1.S-V, *Summary of Source Deductions and Employer Contributions*, or to obtain a copy of the form. If you require information pertaining to the annual depreciation cost, contact the office of the Ministère in your area, at the address or telephone number indicated on page 39.

# OFFICES OF THE MINISTÈRE DU REVENU DU QUÉBEC

## Sainte-Foy

3800, rue de Marly  
Sainte-Foy (Québec) G1X 4A5  
(418) 659-7313

## Québec

265A, rue de la Couronne  
Québec (Québec) G1K 6E1  
(418) 659-7313

## Montréal

### Accueil

255, boul. Crémazie Est, 1<sup>er</sup> étage  
Montréal (Québec)  
(514) 864-4530

### Adresse postale

Complexe Desjardins  
C.P. 3000, succ. Desjardins  
Montréal (Québec) H5B 1A4

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## Abitibi-Témiscamingue et Nord-du-Québec

75, rue Monseigneur-  
Tessier Ouest  
Rouyn-Noranda (Québec) J9X 2S5  
(819) 764-6761

## Bas-Saint-Laurent et Gaspésie-Îles-de-la-Madeleine

212, avenue Belzile, bureau 250  
Rimouski (Québec) G5L 3C3  
(418) 727-3572

## Côte-Nord

391, avenue Brochu, bureau 1.04  
Sept-Îles (Québec) G4R 4S7  
(418) 968-0203

## Estrie

2665, rue King Ouest, 4<sup>e</sup> étage  
Sherbrooke (Québec) J1L 2H5  
(819) 563-3034

## Laval, Laurentides et Lanaudière

705, chemin du Trait-Carré  
Laval (Québec) H7N 1B3  
(514) 864-4530

## Mauricie-Bois-Francs

225, rue des Forges, bureau 400  
Trois-Rivières (Québec) G9A 2G7  
(819) 379-5360

## Montréal

- 1, rue de la Place-du-Commerce, 3<sup>e</sup> étage  
Brossard (Québec) J4W 2Z7  
(514) 864-4530
- 101, rue du Roi  
Sorel (Québec) J3P 4N1  
(514) 864-4530

## Outaouais

170, rue de l'Hôtel-de-Ville, 6<sup>e</sup> étage  
Hull (Québec) J8X 4C2  
(819) 770-1768

## Saguenay-Lac-Saint-Jean

2154, rue Deschênes  
Jonquière (Québec) G7S 2A9  
(418) 548-4322

Throughout Québec, and elsewhere in Canada (toll-free): 1 888 413-2277

Enquiries from outside Canada should be directed to the following office  
of the Ministère: 2665, rue King Ouest, 4<sup>e</sup> étage, Sherbrooke (Québec) J1L 2H5 Tel. (819) 563-3034

Internet: <http://www.revenu.gouv.qc.ca/revenu/mrqwww0f.html>

## **For information concerning the annual depreciation cost**

For information pertaining to points such as the annual depreciation cost, CCA rates, classes of property and types of relationships, call the office of the Ministère in your area, at the address or telephone number indicated on page 39.

# OFFICES OF THE MINISTÈRE DU REVENU DU QUÉBEC

## Sainte-Foy

3800, rue de Marly  
Sainte-Foy (Québec) G1X 4A5  
(418) 659-4155

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Complexe Desjardins  
C.P. 3000, succursale Desjardins  
Montréal (Québec) H5B 1A4  
(514) 864-4155

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(418) 727-3572

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(418) 968-0203

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(819) 563-3034

## Mauricie-Bois-Francis

225, rue des Forges, bureau 400  
Trois-Rivières (Québec) G9A 2G7  
(819) 379-5360

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170, rue de l'Hôtel-de-Ville, 6<sup>e</sup> étage  
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(819) 770-1768

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2154, rue Deschênes  
Jonquièrre (Québec) G7S 2A9  
(418) 548-4322

Throughout Québec, and elsewhere in Canada (toll-free): 1 800 450-4155

Internet: <http://www.revenu.gouv.qc.ca/revenu/mrqww0f.html>