

# Preparing the Income Tax Return of a Deceased Person



The information contained in this guide does not constitute a legal interpretation of the provisions of the Taxation Act or any other legislation. For further information, contact the office of the Ministère du Revenu in your area.

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# Introduction

This brochure contains general information on how to complete the Québec income tax return or returns of a person who died in 2002.

The numbers in italics at the end of certain paragraphs refer to sections of the Taxation Act (section numbers alone), the Act respecting the Ministère du Revenu (“AMR” followed by section numbers), the Act respecting the Québec Pension Plan (“AQPP” followed by section numbers), and the Act respecting the Régie de l’assurance maladie du Québec (“ARAMQ” followed by section numbers).

If you require additional information, consult the guide to the income tax return or contact the Ministère du Revenu du Québec. A list of the offices of the Ministère is provided at the end of the guide.

## Services available over the Internet

The Web site of the Ministère du Revenu contains information concerning Québec’s tax system and the role of the Ministère. The various folders, guides, brochures and forms published by the Ministère may also be consulted via the Internet.

We invite you to visit the Web site of the Ministère du Revenu at the following address: [www.revenu.gouv.qc.ca](http://www.revenu.gouv.qc.ca).

## A. General remarks

When a family member or someone else close to you dies, you may be designated the “liquidator of the succession” (formerly known as the “testamentary executor”), or you may be called upon to assist the liquidator.

The liquidator of the succession (estate) is responsible for completing and filing the income tax returns of the deceased, paying any income tax owing and other debts, and obtaining from the Minister of Revenue of Québec a certificate authorizing the distribution of the property of the estate.

Chapter 1 of this brochure outlines the main tasks that the liquidator must carry out before distributing the property of the estate. Chapters 2 to 6 deal primarily with how to complete the income tax returns of the deceased.

## B. Definitions

To help you better understand the text, a number of the terms used in this brochure are defined below.

**Adjusted cost base** – The amount paid to acquire property, **plus** the related acquisition expenses (such as legal fees, surveying and assessment costs, brokerage fees and, if applicable, GST and QST), plus the capital expenditures for additions and improvements to the property. In the case of depreciable property, the sum of these amounts constitutes the capital cost. If the deceased elected to report a capital gain deemed to have been realized on February 22, 1994, consult the brochure *Capital Gains and Losses* (IN-120-V).

**Capital cost allowance** – Capital cost allowance (CCA) is a deduction that can be claimed with respect to depreciable property, to take into account the fact that such property wears out or becomes obsolete over time. A portion of the capital cost of the property is deducted each year, for a number of years. You **cannot** claim capital cost allowance for the taxation year ending on the date of death because the property is deemed to have been disposed of immediately before the death.

**Capital property** – Depreciable property, or other property whose disposition results in a capital gain or capital loss. As a rule, capital property is purchased as an investment or in order to earn income. The most common types of capital property are cottages, shares, bonds, land, buildings, and equipment used in carrying on a business or in a rental operation.

**Deemed disposition** – A hypothetical transfer of property by a person, whereby the person is considered to have actually disposed of the property.

**Depreciable property** – Capital property used in a business or to earn income, the cost of which can generally be written off over a number of years as capital cost allowance.

**Fair market value** – The highest dollar value that can be obtained for property in the open market, where the parties to the transaction are dealing at arm’s length with each other and are not forced to buy or sell.

**Legal representative** – A person who is mandated to administer or liquidate the property of an estate or to play a major role in the management of the property. In many cases, the liquidator of the succession is the legal representative.

**Liquidator of the succession** – Person responsible for liquidating the estate; in this publication, we generally use the term “liquidator.” In the case of an estate for which there is a will, the liquidator is the person named in the will to administer the estate. If there is no will or if no administrator is named in the will, a liquidator is appointed by the court to administer the estate. The liquidator is often the spouse or closest relative of the deceased.

**Property vested indefeasibly** – Property in respect of which a person acquires the right of absolute ownership. This means that no other person can, further to a future event or development, invoke his or her rights respecting the property. The right of absolute ownership applies to property that, following the death of the owner, was transferred or assigned to the spouse, a spousal trust, or a child of the deceased.

**Spousal trust** – See the definition given in Chapter 1.

**Spouse** – Married person, civil-union spouse or de facto spouse, as applicable.

A de facto spouse is an individual who, at a given time during the taxation year,

- was living in a conjugal relationship with a person of the opposite sex or the same sex and was the biological or adoptive parent (legally or otherwise) of a child of whom that person was also the parent;
- had been living in a conjugal relationship with a person of the opposite sex or the same sex for at least 12 consecutive months (the 12-month period is considered to have been uninterrupted if the persons concerned lived apart because of the breakdown of their relationship for a period of less than 90 days); or

- had been living in a conjugal relationship with a person of the opposite sex or the same sex for a period of less than 12 months, but had previously lived in a conjugal relationship with that person for at least 12 consecutive months (the 12-month period is considered to have been uninterrupted if the persons concerned lived apart because of the breakdown of their relationship for a period of less than 90 days).

In order to be considered the surviving spouse, a de facto spouse must have been living in a conjugal relationship with the deceased at the time of death.

**Undepreciated capital cost (UCC) of the property in a given class** – Generally, this is equal to the capital cost of all the property in the class, **minus** the total amount claimed as capital cost allowance during previous years. For each property disposed of, the **lower** of the following amounts must be subtracted from the undepreciated capital cost:

- the proceeds of disposition of the property, **minus** the expenses relating to the disposition;
- the capital cost of the property.

## Tasks of the liquidator of the succession (estate)

### A. Certificate authorizing the distribution of the property of an estate

When a person dies, the contents of his or her estate must be determined; as well, the estate's accounts receivable must be collected, its debts paid, and its property distributed.

**Before** distributing the property of a deceased person, the liquidator of the succession (or other person who liquidates, administers or controls the estate of the deceased person) must obtain from the Ministère du Revenu a certificate authorizing the distribution.

Form MR-14.A-V must be filed, along with the required supporting documents, as soon as the value of the deceased's assets and the amount of his or her debts have been determined. The form is available on the Web site of the Ministère du Revenu or at any office of the Ministère.

Further to receiving the above-mentioned form and documents, the Ministère normally processes the request and issues the certificate authorizing the distribution within 90 days. However, the Ministère first informs the liquidator (in writing) of the amount of duties, interest and penalties that were payable by the deceased under a fiscal law at the time of death, or that could become payable within 12 months after the death.

Where the property is distributed before the certificate has been obtained, the liquidator becomes **personally** liable, up to the value of the property so distributed, for the duties, interest and penalties that are payable by the deceased under a fiscal law at the time of death or that become payable within 12 months after that time. The liquidator is also personally liable for recovery charges related to an amount payable and for charges related to commercial bills that are not honoured.

However, in order to pay funeral expenses and related expenses, the liquidator may distribute up to \$12,000 in property before filing form MR-14.A-V.

For further information on the procedure for taking inventory of the property of an estate, refer to the publication *What to Do in the Event of Death*, available at offices of Communication-Québec or on their Web site at [www.comm-qc.gouv.qc.ca](http://www.comm-qc.gouv.qc.ca). For information on how to settle an estate, consult the brochure *Successions* on the Web site of the Ministère de la Justice, at the following address: [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca).

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### B. Income tax return of the deceased

When a person dies, the legal representative must file the deceased's income tax return or returns with the Ministère, and pay any income tax owing, within the time limits prescribed by law (see Chapter 3).

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### C. Income tax return of the trust or estate

In addition to filing the deceased's income tax return or returns, the liquidator of the succession or the trustee must in many cases administer the property, income, gains or profits of the estate until the estate is settled, or for a specific period determined under the provisions of the will (for example, until the beneficiary reaches 18 years of age or until the death of the surviving spouse). In either case, a trust **may** be created.

A **testamentary trust** is a trust created by a will, or an estate that is created upon the death of an individual. The terms of the trust are established under the provisions of the will, by law (if there is no will) or by court order (particularly where legislation provides for the support of dependants).

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Where the income or property is not distributed under the terms of the will, the trust may lose its status as a testamentary trust and become an **inter vivos trust**.

A spousal trust is a testamentary trust or an inter vivos trust created by an individual in favour of his or her spouse, under the terms of which the spouse alone, during his or her lifetime, is entitled to receive all income earned by the trust and to receive or otherwise obtain the use of the income or capital of the trust.

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When a trust is created, the trustee (or the liquidator, in the case of an estate) must file form TP-646-V, *Trust Income Tax Return*, for each taxation year in which one of the following situations applies: the total income of the trust or estate exceeds \$500; the income to be distributed to a beneficiary of the trust exceeds \$100; or a portion of the income is not distributed to the beneficiaries. For further information regarding the obligation to file the trust return, see the related guide (TP-646.G-V).

The trust return must be filed within 90 days after the end of the trust's taxation year. In the case of an estate, the first taxation year of the estate **begins on the date of the person's death** and ends either on December 31 of the calendar year or on a date chosen by the liquidator that is no more than 12 months after the date of death.

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The trust return need not be filed if the property of the estate is distributed to the heirs shortly after the person's death, or if no income was earned by the estate prior to the distribution of the property.

**The trustee** (or the liquidator, in the case of an estate) **must complete an RL-16 slip with respect to any portion of trust income allocated or designated to a beneficiary.** If the entire amount allocated to a beneficiary consists in interest income, and the amount is under \$50, it is not necessary to file an RL-16 slip. However, even if no RL-16 slip is issued, the beneficiary must be informed of the amount allocated, since he or she must report the amount as income.

Copy 1 of the RL-16 slip must be submitted to the Ministère at the same time as the trust return (form TP-646-V). Copies 2 and 3 of the slip must be given to the beneficiary. RL-16 slips, the *Guide to Filing the RL-16 Slip* (RL-16.G-V) and form TP-646-V may be obtained from any office of the Ministère.

### **Succession duties**

Succession duties are not payable for estates opened after April 23, 1985.

## Income tax returns of the deceased

When a person dies, the liquidator of the succession (estate) is responsible for filing the deceased's income tax return or returns for

- the taxation year in which the death occurred, which begins on January 1 and ends on the date of death; and
- any previous taxation year for which the deceased did not file an income tax return.

If the income tax return for the year of death is not yet available, the return published by the Ministère for the previous year may be used. Contact the Ministère to find out whether any amounts must be adjusted to correspond to year of death. Be sure to specify the date of death (line 20 of the return) and the year for which the return is being filed. Whether you use the return for the current year or the previous year, you must clearly indicate that you are filing the return of a deceased person.

Chapter 2 is divided into three sections:

- The first two sections deal with the income tax returns (principal return and separate returns) that can be filed for the year of death.
- The third section deals with the deductions and non-refundable tax credits that can be claimed in these returns.

### A. Principal income tax return

As liquidator, **you are required to report all income earned by the person up to the time of death, regardless of whether the amounts were received during his or her lifetime.** These amounts must be reported in a return referred to as the principal income tax return. For example, interest, rents, royalties, annuities, salaries and wages must be reported; these amounts accumulate daily, in equal amounts, during the period in which they are payable. **Any amount that was not paid before the death of the individual but that accrued during the individual's lifetime must be included in the principal return.**

Certain amounts do not accumulate daily in equal amounts. Two examples of such amounts are:

- the amounts that the deceased was to receive but that were not payable on or before the date of death;
- income from an annuity contract, where the contract is considered to have been disposed of at the time of death, and the income is considered to be payable at that time.

It should be noted that certain types of income may be reported in one or more separate returns, as explained in the following section.

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**Note:** Since the 2001 taxation year, the **principal** return filed for a deceased person may be filed under the general or simplified tax system.

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the deductions and credits that are replaced by the flat amount of \$2,780. For further information, refer to the document *Two Tax Systems* in the "Forms" booklet.

### B. Separate income tax returns

Certain fiscal measures that apply only in the case of a return filed on behalf of a deceased person may result in tax reductions for the estate. For example, in addition to filing the required principal return for the year of death, you may **choose** to file up to three other returns, called "separate income tax returns."

Each of the three types of separate returns, is limited to a particular category of income. This means that if one or more separate returns are filed, the income of the deceased is not all reported on the same return. However, certain tax credits and deductions may be claimed on more than one return and, as a result, the income tax payable may be reduced or cancelled out.

The separate income tax returns pertain to the following categories of income:

- the rights and property of the person at the time of death (section 429 of the *Taxation Act*);
- income from a testamentary trust (section 681 of the Act); and
- income from a partnership or a sole proprietorship (section 1003 of the Act).

If you decide to file one or more separate income tax returns, you must clearly indicate the applicable section of the *Taxation Act* at the top of each return you file.

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**Note:** The separate returns must be filed under the general tax system even if the principal return is filed under the simplified tax system.

### Separate return respecting rights and property

The rights and property that may be included in a separate income tax return correspond to the income that the individual **was entitled to receive**, but had **not yet received**, at the time of his or her death. The deceased therefore had a right to absolute ownership of this property at the time of death.

If you decide to file a separate income tax return respecting rights and property, you must report all such income in the same return. (Amounts transferred to beneficiaries are excepted: see “Important” below.) However, if the total of the deductions applicable to this income (such as deductions for interest expenses, property taxes and insurance premiums, in the case of rights and property relating to rental income) exceeds the income, you cannot file a separate return respecting rights and property. Instead, you must enter the income and deductions in the principal income tax return.

### **The following amounts may be reported in a separate return respecting rights and property:**

- employment income (for example, salaries, wages, commissions, bonuses, tips, gratuities or amounts related to vacation pay) for a pay period ended **before** the date of death, **and** retroactive payments made under a collective agreement signed **before** the date of death (if the agreement was signed after the date of death, such payments are not taxable);
- interest coupons that matured **before** the date of death but were **not** cashed;
- interest on compound-interest bonds, earned before the date of the last interest payment made before the person’s death, but **not** paid and not previously reported ;
- dividends that were reported **before** the date of death but were **unpaid** on that date;
- the value of supplies on hand, inventory, and accounts receivable, where the deceased used the cash method of accounting to report business income;
- the value of harvested farm crops and the amount by which the value of the current herd exceeds that of the basic herd, where the deceased was a farmer who used the cash method of accounting;
- **uncashed** cheques representing employment insurance benefits, Québec Pension Plan (QPP) benefits, or Canada Pension Plan (CPP) benefits, for a period ended **before** the date of death;
- a retroactive payment of a disability pension **made after** the date of death, where entitlement to the pension was established **before** the date of death.

**IMPORTANT:** Rights and property that are transferred to a beneficiary before the filing deadline for the separate return must be reported in the beneficiary’s income tax return rather than in the separate return. Information on the filing deadlines for separate returns is given in Chapter 3, section A.

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### **The following amounts cannot be reported in a separate return respecting rights and property:**

- employment income for the pay period **during which the death occurred**;
- income resulting from the deemed disposition of intangible capital property **at the time of death**;
- amounts (such as bank interest) that accumulate on a periodic basis;
- interest earned on bonds from the date of the most recent interest payment to the date of death;
- income from an income-averaging annuity contract;
- land that is part of the inventory of a business of the deceased;
- Canadian or foreign resource property;
- income from a registered retirement savings plan.

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### **Cancellation of a separate return respecting rights and property**

A separate return respecting rights and property may be cancelled, provided it was submitted by the filing deadline. To request cancellation of a separate return, you may file form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*, by the filing deadline for the separate return (see Chapter 3, section A); you may also, by the same deadline, send a letter, signed by the liquidator of the succession, requesting that the election to file the separate return be cancelled.

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### **Separate return respecting income from a testamentary trust**

If, in the year of death, the person was the beneficiary of a testamentary trust (that is, a trust created upon the death of another person), a separate return may be filed to report the trust income earned from the end of the trust’s taxation year to the date of death. However, the separate return may be filed only if the person died after the end of the trust’s taxation year but before the end of the calendar year in which that taxation year ended.

### **Example**

The taxation year of the testamentary trust began on June 1, 2001, and ended on May 31, 2002. The beneficiary of the trust died on June 20, 2002. The income of the deceased for 2002 may be reported in either of the following ways:

- The trust income for the period from June 1, 2001, to June 20, 2002, may be reported in the **principal return** of the deceased.

## Example (continued)

- In addition to the principal return, a separate return may be filed respecting the trust income. The trust income for the period from June 1, 2001, to May 31, 2002, must be reported in the principal return, and the trust income for the period from June 1, 2002, to June 20, 2002, must be reported in the separate return.

However, if the death occurs during the **first** taxation year of the trust, the income the person received or was entitled to receive as a beneficiary must be reported in the **principal return** only.

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## Separate return respecting income from a partnership or sole proprietorship

If the person was a member of a partnership or the sole proprietor of a business at the time of death, a separate return may be filed respecting the business income that was earned from the end of the partnership's or business's fiscal period to the date of death. However, the separate return may be filed only if the person died after the end of the fiscal period but before the end of the calendar year in which that fiscal period ended.

## Example

A person who earned income as a member of a partnership (or from a sole proprietorship) died on September 22, 2002. The fiscal period of the business started on April 1, 2001, and ended on March 31, 2002. The income of the deceased for 2002 may be reported in **either** of the following ways:

- The business income for the period from April 1, 2001, to September 22, 2002, may be reported in the **principal return** of the deceased.
- In addition to the principal return, a separate return may be filed respecting the business income. The business income for the period from April 1, 2001, to March 31, 2002, must be reported in the principal return, and the business income for the period from April 1, 2002, to September 22, 2002, must be reported in the separate return.

However, if the death occurs during the **first** fiscal period of the business or the partnership, the income the person received prior to death, or was entitled to receive at the time of death, must be reported in the **principal return**; it cannot be reported in a separate return.

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## C. Reporting deductions and tax credits in the various income tax returns

The amounts related to the deductions and tax credits to be claimed (in the principal return and up to three separate returns) on behalf of the deceased fall into four categories:

- amounts that may be claimed in full in each of the income tax returns filed;
- amounts that may be split between the income tax returns filed;
- amounts that may be claimed only in the income tax return in which the related income is reported;
- amounts that may be claimed in the principal return only.

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the deductions and credits that are replaced by the flat amount of \$2,780. For further information, refer to the document *Two Tax Systems* in the "Forms" booklet.

### Amounts that may be claimed in full in each of the income tax returns filed

The following amounts may be claimed in full in the principal return and in each separate return:

- the basic amount (line 360);
- the amount respecting a spouse (line 366);
- the amount respecting dependent children or other dependants (line 367);
- the amount for a member of a religious order who has taken vows of perpetual poverty (line 377).

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the amounts for lines 366 and 377. For further information, refer to the document *Two Tax Systems* in the "Forms" booklet.

### Amounts that may be split between the income tax returns filed

Certain amounts may be split between the principal return and the separate returns, provided the total amount claimed with respect to a particular deduction or credit does not exceed the amount that could be claimed if all the deceased's income were reported in a single income tax return.

The following amounts may be divided up and claimed in two or more returns:

- the amount with respect to age, for a person living alone or for retirement income (line 361);
- the amount respecting a severe and prolonged mental or physical impairment (line 376);
- expenses incurred to obtain medical services not available in the area where the deceased lived (line 378);
- the amount for medical expenses (line 381);\*
- the amount for tuition or examination fees (line 384);\*
- the amount for interest paid on a student loan (line 385);\*
- the amount transferred by a dependant respecting a severe and prolonged mental or physical impairment (line 386);
- charitable donations, gifts to a government and other gifts (line 389).\*

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the amounts for lines 378, 381, 384 and 385. For further information, refer to the document *Two Tax Systems* in the “Forms” booklet.

### Amounts that may be claimed only in the income tax return in which the related income is reported

The following amounts (deductions and credits) may be claimed only in the return in which the related income is reported:

- the deduction for QPP contributions required on income from self-employment and for optional QPP contributions (line 217);\*
- the deduction for an Indian or a person of Indian ancestry (line 293);
- the deduction of certain benefits received under social programs (line 295);
- the deduction for scholarships and bursaries (line 295);
- the deduction respecting a home-relocation loan (line 297);
- the deduction respecting a stock option or an option to purchase units in a mutual fund trust (line 297);
- the deduction respecting an amount exempt from income tax under a tax treaty or agreement (line 297);
- the deduction respecting shares received in exchange for mining property (line 297);
- the deduction for employees of certain international organizations (line 297);
- contributions to the QPP and the CPP (line 370);\*

- employment insurance premiums (line 371);
- union or professional dues (line 373);
- the dividend tax credit (line 415);
- the Québec sales tax (QST) rebate for employees and partners (line 459).

If a deduction or credit is divided up and claimed in two or more income tax returns because the related income is also split between two or more returns, the total deduction or credit claimed on all the returns filed must not exceed the deduction or credit that could have been claimed if all the deceased’s income for the year of death had been reported in a single income tax return.

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the amounts for lines 297, 370, 371, 373 and 415. For further information, refer to the document *Two Tax Systems* in the “Forms” booklet.

### Amounts that may be claimed in the principal return only

The following amounts may be claimed in the principal return only:

- non-capital losses from other years (line 289);
- net capital losses from other years (line 290);
- the taxable capital gains exemption (line 292);
- the deduction for residents of designated remote areas (line 294);
- the contribution to the health services fund (line 372);
- the amount respecting a spouse (line 380 of the simplified income tax return);
- the amount transferred by the deceased’s spouse, respecting a severe and prolonged mental or physical impairment (line 386);
- the tax credit for contributions to authorized Québec political parties (line 414);
- the tax reduction for families (line 420);\*
- the tax credit with respect to a labour-sponsored fund (line 424);
- carry-forward of alternative minimum tax (line 431 of Schedule E);
- the premium payable under the Québec prescription drug insurance plan (line 447);
- the refundable tax credit for medical expenses (line 462) (not to be confused with the amount for medical expenses on line 381).

\* For further information, see the instructions for this line in Chapter 4.

As a rule, refundable tax credits, as well as refunds of various taxes that the person paid prior to his or her death, may be claimed only in the principal return. Such amounts include

- the tax credit for child-care expenses (line 455);\*
- the tax credit respecting the housing of a parent (line 462);
- the tax credit for taxi drivers (line 462);
- the property tax refund for forest producers (line 462);
- the tax credit respecting home-support services for seniors (line 462);
- the tax credit for adoption expenses (line 462);
- the tax credit respecting the treatment of infertility (line 462) ;
- the tax respecting the maintenance of a racehorse (line 462).

The following amounts may be claimed only in the principal return and **only if the person died on December 31**:

- the tax credit respecting the acquisition of Capital regional et coopératif Desjardins shares (line 422) ;
- the property tax refund (line 460);
- the tax credit for taxi owners (line 462).

### **Simplified tax system**

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the amounts for lines 289, 290, 292, 294 and 372, or the amount for line 431 of Schedule E. For further information, refer to the document *Two Tax Systems* in the “Forms” booklet.

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\* For further information, see the instructions for this line in Chapter 4.

## Filing deadlines and payment of income tax, interest and penalties

The liquidator of the succession (estate) is responsible for filing one or more income tax returns for every taxation year respecting which the deceased person did not file a return. An income tax return must be filed where a person

- was required to pay income tax, QPP contributions, a contribution to the health services fund, or a premium under the Québec prescription drug insurance plan;
- would have had income tax payable, if he or she had not deducted losses from other years;
- realized a taxable capital gain;
- disposed of capital property, or was deemed to have disposed of capital property at the time of death (in the latter case, see Chapter 5);
- worked in the restaurant and hotel sector and received tips;
- received benefits under the PWA (parental wage assistance) program;
- was entitled to the shelter allowance provided for under the shelter allowance program;
- received advance payments of the tax credit respecting home-support services for seniors;
- was entitled to receive Québec family allowances;
- was entitled to refundable tax credits; or
- was the beneficiary of a designated trust.

Returns must be filed, and amounts owing must be paid, by the deadlines specified below.

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### A. Filing deadlines

#### Income tax returns for the year of death

##### Principal return and the separate return respecting income from a partnership or sole proprietorship

For the 2002 taxation year, these returns must be filed with the Ministère by the dates specified below.

- If the death occurred during the first 10 months of 2002, the returns must be filed no later than
  - April 30, 2003; or
  - June 15, 2003, if the deceased person or his or her spouse carried on a business in 2002.

However, in both cases, **income tax owing must be paid by April 30, 2003.**

- If the death occurred in November or December of 2002, the returns must be filed no later than
  - six months after the date of death; or
  - June 15, 2003, if the deceased person or his or her spouse carried on a business in 2002 and the death occurred before December 16, 2002.

However, in both cases, **income tax owing must be paid no later than six months after the date of death.**

See “Exception” below.

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#### Separate return respecting rights and property

The separate return respecting rights and property must be filed, and any amount owing must be paid, by the later of the following dates:

- 90 days after the mailing date of a notice of assessment or reassessment respecting the principal income tax return filed for the year of death; or
- one year after the date of death.

See “Exception” below.

429

#### Separate return respecting income from a testamentary trust

For the 2002 taxation year, the separate return respecting income from a testamentary trust must be filed, and any amount owing must be paid, by the later of the following dates:

- April 30, 2003; or
- six months after the date of death.

681

#### Exception

If the creation of a **spousal trust** is provided for in the will of the deceased or in a court order, and the trust is responsible for certain debts of the deceased or the estate, the filing deadline for the **principal return** and the **separate returns** may be extended to 18 months after the date of death. However, interest will be charged on any amounts that are not paid by the usual filing deadlines for the returns for the year of death.

445(a)

## Income tax returns for years prior to the year of death

It is possible that the person did not file, during his or her lifetime, all income tax returns required for the years prior to the year of death. If the deceased left no files in this regard, or if the files do not enable you to determine whether returns were submitted, you may contact the Ministère du Revenu to obtain this information (provided you are authorized to do so).

If income tax is owed for years prior to the year of death, interest will be charged on the amount as of the date on which the income tax was payable. Applicable penalties will be calculated as of the filing deadline for the return or returns concerned.

### Filing deadline

- If the **death occurred before May 1** of a given year (or before June 16, if the person or his or her spouse carried on a business in the year prior to the year of death), the income tax return for the **year prior to** the year of death must be filed **no later than six months after the date of death**. If there is a balance due, it must be paid by the same date.
- If the **death occurred after April 30** (or after June 15, if the person or his or her spouse carried on a business in the year prior to the year of death), the filing deadline for the income tax return for the **year prior to** the year of death is **not** extended.

## B. Payment of income tax, interest and penalties

The amount owed by the deceased must be paid by the dates specified in section A above, or interest will be charged on the unpaid amount. Moreover, a 5% late-filing penalty may be imposed with regard to any amount of income tax that is not paid by the date on which the income tax return is to be filed. An additional 1% penalty may be imposed for each full month the return is late (to a maximum of 12 months).

1045

Any income tax payable on rights and property (whether reported in the principal return or in a separate return), or on income resulting from the deemed disposition of capital property at the time of death, may be remitted in equal and consecutive annual instalments, provided the legal representative of the deceased (liquidator of the succession) furnishes security to the Minister of Revenue that the latter judges acceptable. However, the number of instalments must not exceed 10, and the total amount of the instalments must not exceed the amount by which

- the total of the amounts entered on line 479 of the principal return and the separate return respecting rights and property **exceeds**
- the amount that would be entered on line 479 of the principal return, if the only income reported consisted in amounts **other than** rights and property and **other than** income resulting from the deemed disposition of capital property at the time of death.

1032

Interest is added to the amount of each instalment; it is calculated from the date on which the income tax was to be paid to the date on which the instalment payment is made.

Complete form TP-1032-V, *Election to Make Instalment Payments in Respect of Income Tax Resulting from the Deemed Disposition of Certain Property Owned at the Time of Death*, and submit it, along with the first instalment payment, by the filing deadline for the income tax return.

# Instructions for completing the principal income tax return and separate income tax returns

Chapter 4 provides explanations for completing the income tax return of a person who died in 2002. The explanations cover the lines for which specific instructions apply to the return of a deceased person.

As of the 2001 taxation year, liquidators of successions may file the **principal return** under the simplified tax system. **Therefore, you may file the income tax return of a deceased person under the general or the simplified tax system.**

The **separate** returns must be filed under the general tax system.

For further information, consult the guide to the income tax return, which you can obtain at one of the offices of the Ministère du Revenu or a Caisse Desjardins.

### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the deductions and credits that are replaced by the flat amount of \$2,780. For further information, refer to the document *Two Tax Systems* in the “Forms” booklet.

### Identification

It is important that the “Identification” section of the income tax return be correctly completed. If there is an identification label on the cover of the guide, affix the label to the return (in the space provided for that purpose). Be sure to specify “Estate” after the person’s name.

### Lines 7 to 9 – Address

Complete the box in the “Identification” section of the return, indicating the address you intend to use in all future correspondence (normally the address of the liquidator of the succession).

### Line 12

Since a deceased person is deemed not to have had a spouse on December 31, you must check box 1 (“You did **not** have a spouse”) of the deceased person’s return. When completing lines of the income tax return or schedules for which the income of the **person who was the taxpayer’s spouse on December 31** is normally taken into account, **disregard** such amounts.

### Line 20 – Date of death

Enter the date of death.

### Line 90 – Application for the QST credit

The QST credit cannot be claimed in the income tax return of a deceased person. Furthermore, the credit cannot be claimed with regard to the deceased person in the income tax return of the person who was his or her spouse at the time of death (this is because the persons are not considered to have been spouses on December 31).

If the person died in 2002, before the beginning of a month in which payments of the QST credit are made (August and December of 2002), the amount that would have been paid to the person in the month in question cannot be claimed in the income tax return. However, the surviving spouse (unless he or she also dies before the beginning of the month in question) can ask to receive the amount that would have been paid to the deceased. The surviving spouse must make such a request by the day on which the legal representative is required to file the deceased person’s income tax return for the year of death.

*1029.8.101 to 1029.8.109*

### Credit for individuals living in northern villages

The credit for individuals living in northern villages cannot be claimed in the income tax return of a deceased person. Furthermore, it cannot be claimed, with regard to the deceased person, in the income tax return of the person who was his or her spouse at the time of death (this is because the persons are not considered to have been spouses on December 31).

If the person died in 2002, before the beginning of a month in which payments of this credit are made (August and December of 2002), the amount that would have been paid to the person in the month in question cannot be claimed in the income tax return. However, the surviving spouse (unless he or she also dies before the beginning of the month in question) can ask to receive the amount that would have been paid to the deceased. The surviving spouse must make such a request by the day on which the legal representative is required to file the deceased person’s income tax return for the year of death.

*1029.8.110 to 1029.8.116*

### Line 100 – Commissions received

Report in the **principal return** the commissions that the deceased received from January 1 to the date of death. If the commissions were payable at the time of death, but had not yet been received, they **may be reported in a separate return.**

*429*

## Line 101 – Employment income

Report employment income in the **principal return**. Take into account all employment income received by the person from January 1 to the date of death, as well as any amounts earned from the beginning of the pay period in which the employee died to the date of death. However, if the income constitutes rights or property, it **may be reported in a separate return** (see Chapter 2, section B for further information).

Certain employment income received by a beneficiary or by a testamentary trust must be reported in the beneficiary's or trust's income tax return (on line 154, "Other income"). Such income includes

- employment income for a pay period ended before the date of death, and amounts relating to accumulated vacation days, where such income is transferred to a beneficiary **before** the filing deadline for the separate return respecting rights and property. **If the income is transferred after this date, it may be reported in the principal return of the deceased or in the separate return respecting rights and property;**
- salary, wages or other remuneration paid for a period after the date of death (this period is generally the remainder of the month); and
- a death benefit, such as an amount relating to accumulated sick leave (the first \$10,000 may be exempt from income tax; see "Death benefit paid by the employer" at line 154, section A).

### Retroactive payments of salaries or wages

Retroactive payments received for the period from January 1 to the date of death must be reported in the **principal return**. In certain cases, the liquidator can request that the income be spread over a number of years. See the instructions for line 101 in the guide to the income tax return.

A retroactive payment received **after** the death can be reported in the **separate return** respecting rights and property, provided the deceased's entitlement to the payment was established **before** he or she died. This income cannot be spread over a number of years.

Where the deceased's entitlement to a retroactive payment was established **after** he or she died, the payment is not taxable.

If interest was paid on a retroactive payment, see the instructions for line 130.

429, 430

### Purchase options (shares or mutual fund units)

Where a person, immediately before his or her death and pursuant to an agreement with an employer or former employer (or with a corporation that was not dealing at arm's length with the

person), owned an option for the purchase of shares or of units in a mutual fund trust, the person is deemed to have received (for the year of death) a benefit equal to the amount by which the value of the option immediately after the time of death **exceeds** the amount paid to acquire the option. The value of the benefit is included in the amounts in boxes A and L of the RL-1 slip, and is indicated in the centre of the slip, after the note "Box A – Benefit related to purchase options at the time of death" (or "Case A : Avantage pour option d'achat au décès"). Enter the amount on line 101 of the principal return. However, this income **may be included on a separate return**.

#### 52.1

An amount indicated in the centre of the RL-1 slip, after the note "Security option deduction" (or "Déduction pour option d'achat de titres"), may be deducted on line 297 of the income tax return (general tax system).

#### 725.2, 725.2.1

**Note:** If the deceased, at the time of exercising the purchase option, elected to defer reporting the related benefit until the year of sale, the benefit to be entered on line 101 of the deceased's tax return is equal to the amount by which the value of the shares (or units) at the time of acquisition **exceeds** the total amount paid to acquire the shares (or units) and the option. This amount may give entitlement to the deduction respecting a stock option or an option to purchase units in a mutual fund trust. To determine the deductible amount, see the instructions for line 297 (point 2) in the guide to the income tax return.

If, **during the estate's first taxation year**, you (as legal representative) exercise or dispose of a stock option acquired by the deceased under an agreement respecting which he or she is deemed to have received a benefit, you may claim a **deduction** on line 103 of the deceased's income tax return, provided the value of the option at the time it was exercised or disposed of was lower than its value immediately after the time of death. The deduction is considered a **loss related to an office or employment**. The deductible amount is

- the value of the benefit respecting the option (indicated in boxes A and L of the RL-1 slip and taken into account in the principal return of the deceased), **minus**
- the amount by which the value of the option immediately before it was exercised or disposed of exceeds the amount paid by the deceased to acquire the option.

However, if a deduction respecting a security option was entered on line 297 of the principal return of the deceased, you may claim **only one-half** of the result obtained as explained above.

To claim such a loss in the income tax return of a deceased person, you must file form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*, for the year of death. Indicate that you are making an election under section 1055.1 of the *Taxation Act* and file the form by the later of the following dates:

- the filing deadline for the income tax return (principal or separate) for the year of death;
- the filing deadline for the *Trust Income Tax Return* (form TP-646-V) for the estate's first taxation year (see "Income tax return of the trust or estate," Chapter 1, section C).

1055.1

## Line 103 – Employment expenses and deductions

The expenses and deductions to be entered on line 103 may be claimed in the **principal return** or in a **separate return** respecting rights and property. However, you must make sure that the expenses and deductions relate to the type of income reported in the return concerned. You may also be able to deduct certain expenses that were paid after the person's death.

### Depreciable property

Capital cost allowance (CCA) may **not** be claimed for the year of death, except with respect to a class 10.1 automobile. In that case, the CCA is limited to 50% of the amount that could normally have been claimed for the year.

### Reimbursement of salaries, wages or wage loss insurance benefits

If salaries, wages or wage loss insurance benefits are reimbursed on behalf of the deceased, a credit may be claimed on line 462 of the income tax return, provided the salaries, wages or benefits were included in the person's income for a previous year. Enter "08" on line 461 of the **principal return**, and enclose the documents substantiating the reimbursement. The Ministère will calculate the amount of the credit.

## Line 107 – Other employment income

### Tips not entered on line 101

Report in the **principal return** the tips received from January 1 to the date of death that are not entered on line 101. The tips that were not received prior to the time of death may be reported in a **separate return**.

42.8 to 42.11

### Wage loss insurance benefits

Report in the **principal return** the wage loss benefits that the deceased received, from January 1 to the date of death, under a wage loss insurance plan to which his or her employer made contributions. Wage loss benefits for a period that ended before the date of death, but not received prior to that date, may be reported in a **separate return**.

The premiums paid by the deceased may be subtracted from the benefits received under the plan, whether the benefits are included in the principal return or in a separate return. You must enclose a letter from the employer stating the amount of premiums that may be deducted.

43

## Rebate of the GST and QST

If the goods and services tax (GST) and the Québec sales tax (QST) were included in the expenses that the deceased deducted as an employee, the GST and QST rebates received from January 1 to the date of death must be reported in the **principal return**. A rebate claimed by the person **before** his or her death but received **after** the death may be reported in a **separate return**.

A rebate that is claimed by the liquidator **after** the person's death is issued to the estate. In this case, the rebate is not to be reported in the income tax return of the deceased, nor in that of the estate.

58.2, 58.3

## Line 111 – Employment insurance benefits

Report in the **principal return** the employment insurance benefits received from January 1 to the date of death.

If the period covered by the benefit ended **before** the person's death, but the payment was not received prior to the time of death, the amount of the benefit may be reported in a **separate return**.

### Retroactive payment of employment insurance benefits

A retroactive payment of employment insurance benefits that was received for the period from January 1 to the date of death must be reported in the **principal return**. However, the liquidator may ask the Ministère to spread the retroactive payment over a number of years and to make the appropriate tax adjustment; refer to the instructions for line 402 in the guide to the income tax return (or line 401 in the guide to the simplified return).

A retroactive payment received **after the person's death** may be reported in the **separate return** respecting rights and property if entitlement to the payment was established **before the person's death**. Such a payment cannot be spread over a number of years.

Where entitlement to the retroactive payment is established **after the person's death**, the heirs or the estate must include the payment in their income. In this case, the payment cannot be spread over a number of years.

766.2

## Line 114 – Old age security pension

Report in the **principal return** the amount of the old age security pension received by the person during the year. If the final cheque (that is, the cheque for the month in which the person died) was not received **prior to the person's death**, the amount may constitute rights or property and, as a result, it may be reported in a **separate return**.

## Line 119 – Amounts received under the Québec Pension Plan (QPP) or the Canada Pension Plan (CPP)

Report in the **principal return** the amounts paid to the person under the QPP or the CPP prior to his or her death. Only amounts **for the month of death** that were not received by the person prior to death (for example, a pension due but not received for the month of death) may constitute rights or property and, as a result, be reported in a **separate return**.

### Retroactive payments of QPP or CPP benefits

Retroactive payments received for the period from January 1 to the date of death must be reported in the **principal return**. However, the liquidator can request that the income be spread over a number of years and that a tax adjustment be made. See the instructions for line 402 in the guide to the income tax return (or line 401 in the guide to the simplified return).

A retroactive payment received **after** the death may be reported in the **separate return** respecting rights and property, provided the deceased's entitlement to the payment was established **before** he or she died. This income cannot be spread over a number of years.

Where entitlement to the retroactive payment is established **after** the person's death, the heirs or the estate must include the payment in their income. In this case, the payment cannot be spread over a number of years.

725.1.2, 766.2

### Death benefit paid under the QPP or CPP

A death benefit paid under the QPP or the CPP must be **included in the income of the estate** rather than that of the deceased. This rule applies even if the benefit was paid to a person other than a beneficiary of the estate. Please note that the income of the estate must be reported in the *Trust Income Tax Return* (form TP-646-V).

However, if the death benefit is the only income to be reported in the trust return, the return need not be filed; in this case, the recipient of the benefit must include it in his or her income. If the estate is refused, the person who received the benefit for the purpose of paying the funeral expenses is not required to include it in his or her income.

317.2

## Line 122 – Life annuity payments under a pension plan, annuities, and payments under an RRSP, a RRIF or a DPSP

### Life annuity payments under a pension plan

Report in the **principal return** the amount of the life annuity payments that the deceased received under a pension plan prior to death and that are included in the amount in box A of the RL-2 slip. Only amounts **for the month of death** that were not received by the person prior to death may constitute rights or property and, as a result, be reported in a **separate return**.

Life annuity payments made after the date of death must be included in the income tax return of the beneficiary or the estate. If the payments continue to be made to the surviving spouse after the person's death, the surviving spouse must report them in his or her income tax return. If the payments are received by the estate and subsequently allocated to a beneficiary of the estate, the amount in question must be indicated on an RL-16 slip issued in the beneficiary's name.

In the case of a retirement benefit designated to the surviving spouse, see the instructions pertaining to box D in the *Guide to Filing the RL-16 Slip* (RL-16.G-V). For information concerning benefits paid under a pension plan further to the revocation of the plan, contact the Ministère du Revenu.

For information concerning single payments received under a registered pension plan (RPP), see line 154, section C.

### Payments under an RRSP or a RRIF

Where the deceased person was the annuitant under a registered retirement savings plan (RRSP) or a registered retirement income fund (RRIF), the amount of the life annuity payments that were made to the person prior to death (indicated in box B of the RL-2 slip) can be reported only in the **principal return**. Only payments **for the month of death** that were not received by the person prior to death may constitute rights or property and, as a result, be reported in a separate return.

For information concerning property held in an RRSP or a RRIF at the time of death, see line 154, section B.

### Payments under a DPSP

Where the deceased person was the annuitant under a deferred profit-sharing plan (DPSP), report in the **principal return** the amount of the payments that were made to the person prior to death (indicated in box B of his or her RL-2 slip). A payment that was due before the person's death but was not received prior to the date of death may be reported in a **separate return**.

Payments made to the surviving spouse must be reported in the spouse's income tax return. In this case, the trust governing the DPSP will issue an RL-2 slip in the name of the surviving spouse; the amount in question will be indicated in box B of the slip.

For information concerning single payments received under a DPSP, see line 154, section C.

### Annuities that constitute retirement income

If the deceased person received an income-averaging annuity or an ordinary annuity (identified respectively by the abbreviations “RE” and “RO” in the “Provenance” box of the person’s RL-2 slip), report the amount shown in box B of the RL-2 slip in the **principal return**.

All amounts received by the estate or the beneficiary of the estate by reason of the person’s death must be entered in the income tax return of the estate or beneficiary. If the estate allocates annuity payments to the beneficiary, it must issue an RL-16 slip in the beneficiary’s name.

### Income earned under certain life insurance policies

Report on line 122 of the **principal return** the income earned under certain life insurance policies or annuity contracts and indicated in box J of the RL-3 slip issued in the name of the deceased.

All amounts received by the estate or the beneficiary of the estate by reason of the person’s death must be entered in the income tax return of the estate (form TP-646-V, *Trust Income Tax Return*) or in that of the beneficiary.

### Line 128 – Taxable amount of dividends from taxable Canadian corporations

Report in the **principal return** the taxable amount of dividends from taxable Canadian corporations that were received from January 1 to the date of death. Dividends receivable but not received prior to the time of death may be reported in a **separate return**.

### Line 130 – Interest from Canadian sources and other investment income

Report in the **principal return** all investment income received by the person in the year of death, provided the income was not reported previously. The following amounts must also be included in the **principal return**:

- interest earned from January 1 to the date of death, even if the interest has not been paid;
- interest earned on term deposits, guaranteed investment certificates and similar investments from the date of the last interest payment to the date of death;
- bond interest earned from the date of the last interest payment to the date of death, provided the interest was not reported previously;
- compound interest earned on bonds to the date of death, provided the interest was not reported previously.

Investment income the person was entitled to receive (that is, investment income the person could have required to be paid prior to death) may be reported in a **separate return** respecting rights and property. Interest income accrued after the date of death must be included in the *Trust Income Tax Return* (form TP-646-V).

If the person received, as a beneficiary of a testamentary trust, investment income that is indicated in box G of his or her RL-16 slip, enter the amount concerned on line 130 of the person’s **principal return**. However, the income from the testamentary trust may cover two of the trust’s taxation years in the year of death; in this case, it may be advantageous to complete a **separate return** respecting the income earned from the end of the trust’s last taxation year to the date of death. See the section “Separate return respecting income from a testamentary trust” in Chapter 2.

### Interest on retroactive payments

Interest on retroactive payments that was received for the period from January 1 to the date of death must be reported in the **principal return**. However, the liquidator can request that the income be spread over a number of years and that a tax adjustment be made. See the instructions for line 402 in the guide to the income tax return (or line 401 in the guide to the simplified return).

Interest received **after** the death may be reported in the **separate return** respecting rights and property, provided the deceased’s entitlement to the interest was established **before** he or she died. This income cannot be spread over a number of years.

Where entitlement to the interest is established **after** the person’s death, the heirs or the estate must include the payment in their income. In this case, the interest cannot be spread over a number of years.

*725.1.2, 766.2*

### Line 136 – Rental income

Report in the **principal return** the net income that the person derived from the rental of property prior to death. The net rental income from each immovable property may be calculated on form TP-128-V, *Income and Expenses respecting the Rental of Immovable Property*, or a statement of rental income and expenses may be submitted for each immovable property from which the deceased earned rental income.

In the **calculation of rental income**, you must

- include the rent paid or payable to the deceased, including the rent for the month of death; and
- deduct the expenses incurred from January 1 to the date of death, regardless of whether they had been paid by that date. Accordingly, the amount of property taxes, insurance and interest must be calculated in proportion to the number of

days in the year that the person was alive. **No amount may be claimed as capital cost allowance for the year of death**, since all the property of the deceased is deemed to have been disposed of at the time of death.

If the liquidator decides to file a **separate return** respecting the rents that were receivable but were not paid prior to the time of death, the related expenses must also be deducted in the separate return.

### Deemed disposition

When a person dies, there is a deemed disposition of the capital property (land, buildings, cottage, etc.) that the person owned at the time of death, even if the property was not actually sold. It may therefore be necessary to take into account a capital gain or a capital loss, recapture of capital cost allowance, or a terminal loss. For further information, see Chapter 5.

80, 128, 436

### Line 139 – Taxable capital gains

If the person disposed of capital property prior to his or her death, consult the guide to the income tax return, or obtain a copy of the brochure *Capital Gains and Losses* (IN-120-V) from any office of the Ministère. The property the person owned on the date of death is deemed to have been disposed of on that date. A capital gain may therefore result if the deemed proceeds of disposition exceed the adjusted cost base of the property in question. Report such a capital gain in the **principal return** of the deceased. For further information, see Chapter 5.

436

### Reserve respecting a capital gain

As a rule, where a person realizes a capital gain on the disposition of capital property, and the agreement provides for a portion of the proceeds of disposition to be paid in subsequent years, the person may claim a reserve. The income tax on a portion of the gain is thus spread out over a number of years. A new reserve is determined for each year. The capital gain for a given year is equal to the reserve for the preceding year minus the reserve for the current year.

A reserve **cannot** be claimed for the year of death. Consequently, if a reserve was claimed for the year preceding the year of death, it constitutes a capital gain upon the death of the person. For example, if the person died in 2002 and an amount was claimed as a reserve in Schedule G of his or her 2001 income tax return, the 2001 reserve must be included in the amount entered on line 139 of his or her 2002 return.

### Exception

It is possible to transfer the balance of a reserve to the surviving spouse or to a spousal trust, provided the right to receive an amount is vested indefeasibly (see the definition of “property vested indefeasibly,” at the beginning of this publication) in the

surviving spouse or the spousal trust, and provided a joint election is made on form TP-453-V, *Election concerning the Deduction of a Reserve for the Year of Death*. In that case, the balance of the reserve must be included in the calculation of the beneficiary’s income for the beneficiary’s first taxation year ending after the date of death.

452, 453

### Line 142 – Support payments received

Take into account only taxable support payments, that is, payments not subject to the rules under which child support is not to be included in income.

Report in the **principal return** the support payments received by the deceased from January 1 to the date of death. Amounts owed to the deceased at the time of death or received by the estate after the date of death are not considered support payments.

### Support-payment arrears

Support-payment arrears received from January 1 to the date of the recipient’s death must be reported in the **principal return**. However, the liquidator may request that this income be spread out over a number of years and that a tax adjustment be made by the Ministère; refer to the instructions for line 402 in the guide to the income tax return (or line 401 in the guide to the simplified return).

Support-payment arrears that were **received after the date of death** may be reported in the separate return respecting rights and property if entitlement to payment of the arrears was established **prior to death**. The liquidator may not request that the income be spread out over a number of years.

If entitlement to the payment of the arrears was established **after** the death of the recipient, the amounts in question are not taxable.

725.1.2, 766.2

### Line 147 – Last-resort financial assistance and financial assistance received under the “Solidarité jeunesse” project

Report in the **principal return** the amounts received from January 1 to the date of death as last-resort financial assistance or financial assistance under the “Solidarité jeunesse” project; these amounts are shown respectively in boxes A and B of the RL-5 slip. Amounts that were payable but were not received **prior to the date of death** (including the amount of the last financial assistance cheque, if the person did not receive it before he or she died) constitute rights or property and may, as a result, be reported in a **separate return**.

If the person repaid an amount of last-resort financial assistance (box H of the RL-5 slip), the liquidator may enter this amount on line 217.

If the person repaid an amount of financial assistance received under the “Solidarité jeunesse” project, enter the amount on line 217.

## Line 154 – Other income

The income earned by the person from January 1 to the date of death must, as a rule, be reported in the **principal return**. However, the portion of the income that constitutes rights or property may be reported in a **separate return**.

The following amounts, if they were owed to the person at the time of death, may constitute **rights or property**:

- scholarships and bursaries, where entitlement was determined prior to death;\*
- labour adjustment benefits;
- income assistance payments;
- maternity allowances;
- retiring allowances;
- patronage dividends received from a co-operative;
- amounts received under a supplementary unemployment benefit plan.

The types of income discussed in sections A to E below must be reported **in the income tax return of the person or the beneficiaries**, as applicable.

### A. Death benefit paid by the employer

Do not report in the income tax return of the deceased a death benefit (including an amount for accumulated sick leave) paid in recognition of services rendered in carrying out the duties of an office or employment. A death benefit constitutes income for the beneficiary and must be reported on line 154 of his or her income tax return.

**The maximum exemption that may be granted with respect to a death benefit is \$10,000.**

Where there is **only one beneficiary**, and the death benefit is to be paid over more than one year, the exemption applies as follows:

- For the first year, the exemption applies to the total payments received during the year (maximum \$10,000).
- For each subsequent year, the exemption applies to the amount by which \$10,000 **exceeds** the total payments received during previous taxation years (see Example 1 below).

### Example 1

The sole beneficiary of a \$12,000 death benefit receives \$6,000 in 2002 and \$6,000 in 2003.

The beneficiary may claim a \$6,000 exemption for 2002 and a \$4,000 exemption for 2003, and will then have claimed the maximum exemption (\$10,000).

Where there is **more than one beneficiary**, the exemption granted to each beneficiary may not exceed the lower of the following amounts:

- the amount received in the year by the beneficiary;
- the amount obtained when \$10,000 is multiplied by the proportion of the total benefit represented by the amount received in the year by the beneficiary and the total amount of the benefit.

If the death benefit is paid over a period of more than one year, you must do the calculation each year (see Example 2 below).

### Example 2

Upon the death of an individual, the surviving spouse and the son of the deceased each receive 50% of a \$12,000 death benefit (that is, \$6,000). The benefit is paid over two years, with \$4,000 being paid in 2002 and \$8,000 in 2003.

The exemption that may be claimed by **each beneficiary** is calculated as shown below.

- **For 2002**, the exemption is equal to the **lower of the following amounts**:

- 50% of \$4,000, that is, \$2,000; or
- $\frac{10,000 \times 2,000}{12,000}$ , that is, \$1,666.67.

The exemption for 2002 is therefore \$1,666.67 X 2 = \$3,333.34

- **For 2003**, the exemption is equal to the **lower of the following amounts**:

- 50% of \$8,000, that is, \$4,000; or
- $\frac{10,000 \times 4,000}{12,000}$ , that is, \$3,333.33.

The exemption for 2003 is therefore \$3,333.33 X 2 = \$6,666.66

Maximum allowable exemption \$10,000.00

3, 4

\* Scholarships and bursaries are not subject to income tax. An amount reported as a scholarship or bursary on line 154 may be deducted on line 295.

Where the death benefit is received by the estate and subsequently remitted to a beneficiary, you must file an RL-16 slip in the beneficiary's name; see the instructions pertaining to box G in the *Guide to Filing the RL-16 Slip* (RL-16.G-V). Where the death benefit is paid, under the terms of the will, to the testamentary trust, refer to the trust guide (TP-646.G-V).

## B. Amounts received or deemed received under an RRSP or a RRIF

As a rule, the fair market value of the property in an RRSP or a RRIF at the time of death **must be included in the person's income**, on line 154 of the principal return (**unless the rules given in the following paragraphs apply**). The amount to be reported is indicated in box E of the RL-2 slip issued in the name of the deceased.

Special rules apply if amounts are paid to the surviving spouse, or to a beneficiary who was a child or grandchild of the deceased and was financially dependent on the deceased at the time of death.

The rules governing RRSPs vary according to whether the RRSP is a **matured** or **unmatured** plan at the time of death. A **matured RRSP** is a plan under which the annuitant, at the time of death, had already begun to receive retirement income (generally in the form of an annuity). An **unmatured RRSP** is a plan under which the annuitant had not yet begun to receive retirement income.

*915.2, 961.17.1*

### Amounts paid to (or for the benefit of) the surviving spouse

#### Amounts paid as annuities under an RRSP or a RRIF

The fair market value of the property in a matured RRSP or a RRIF at the time of the annuitant's death **need not be included in his or her income if one of the following conditions is met**:

- The surviving spouse is the successor annuitant under the matured RRSP or the RRIF.
- The surviving spouse is a **beneficiary of the estate** rather than of the RRSP, and you (as legal representative) and the beneficiary jointly elect to have the latter deemed to be the annuitant of the RRSP. To make this election, you must
  - complete, as applicable, form TP-930-V, *Elections respecting the RRSP of a Deceased Annuitant*, or form TP-961.8-V, *Election respecting the Designated Benefit from a RRIF*;
  - file form TP-930-V or form TP-961.8-V with the Ministère du Revenu; and
  - notify the issuer of the RRSP or RRIF, within the first 60 days of the year following the year of death, that the election has been made.

Amounts paid as annuities are taxable for the surviving spouse, and are indicated in box B of an RL-2 slip issued in the spouse's name.

If you file form TP-930-V or form TP-961.8-V more than 60 days after the end of the year of death, the issuer of the RRSP will have already issued an RL-2 slip in the name of the deceased. In this case, you must report the amount from box E of the slip on line 154 of the deceased's income tax return; you may request an adjustment to the return only after form TP-930-V or form TP-961.8-V has been filed. To request an adjustment, complete form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*.

For further information, refer to the instructions in the *Guide to Filing the RL-2 Slip* (RL-2.G-V).

*915.2, 915.4, 930, 961.8*

### Amounts paid as a refund of premiums under an RRSP or as a designated benefit under a RRIF

All or part of the property in an unmatured RRSP or in a RRIF at the time of death may be considered a refund of premiums (in the case of an RRSP) or a designated benefit (in the case of a RRIF) if one of the following conditions is met:

- Under the terms of the RRSP or RRIF contract, the surviving spouse is the beneficiary of all or part of the property in the plan.
- The surviving spouse is named beneficiary of the estate rather than of the RRSP or RRIF, and you (as legal representative) and the beneficiary make a joint election whereby the beneficiary is considered to have received a refund of premiums or a designated benefit.

To make such an election, you must complete, as applicable,

- form TP-930-V, *Elections respecting the RRSP of a Deceased Annuitant*; or
- form TP-961.8-V, *Election respecting the Designated Benefit from a RRIF*.

If the above-mentioned conditions are met, the fair market value of the property in the RRSP or RRIF, which must as a rule be included (in total) in the income of the deceased, can be reduced or cancelled out. However, this can be done only after the appropriate form (TP-930-V or TP-961.8-V) has been filed. To request an adjustment to the income tax return of the deceased, file form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*.

However, the forms are **not** required if

- the surviving spouse is the beneficiary of all the property in the plan (RRSP or RRIF), and the full amount of the property was either transferred to the spouse's own RRSP or RRIF, or used to purchase an annuity in his or her name before the end of the year following the year of death; and
- no RL-2 slip was issued in the name of the deceased with respect to the RRSP or RRIF.

Enter the amount of a refund of premiums (box D of the RL-2 slip) on line 154 of the **surviving spouse's income tax return**, and enter the amount of a designated benefit (box B of the RL-2 slip) on line 122.

908, 930, 961.1.5, 961.8, 961.17

### Amounts paid to (or for the benefit of) a child or grandchild of the deceased

If a child or grandchild who was financially dependent on the person at the time of his or her death is, under the terms of a matured or unmatured RRSP or a RRIF, a beneficiary of the property in the plan, the amount paid to the child or grandchild may be considered a refund of premiums (in the case of an RRSP) or a designated benefit (in the case of a RRIF). This is true even if there is a surviving spouse.

The amount (or a portion thereof) may also be considered a refund of premiums or designated benefit if the child or grandchild is a beneficiary of the estate rather than of the RRSP or RRIF, provided you (as legal representative) and the beneficiary make a joint election to that effect. To make such an election, you must complete, as applicable,

- form TP-930-V, *Elections respecting the RRSP of a Deceased Annuitant*; or
- form TP-961.8-V, *Election respecting the Designated Benefit from a RRIF*.

If the preceding conditions are met, the fair market value of the property in the RRSP or RRIF, which must as a rule be included in the income of the deceased, can be reduced or cancelled out. However, this can be done only after the appropriate form (TP-930-V or TP-961.8-V) has been filed. To request an adjustment to the income tax return of the deceased, file form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*.

**Note:** As a rule, a child or grandchild is considered to have been financially dependent on the deceased if, during the year preceding the year of death, the income of the child or grandchild did not exceed the basic personal amount provided for in the federal income tax return.

908

### C. Single payment received under an RPP or a DPSP

Single payments received under a registered pension plan (RPP) or a deferred profit-sharing plan (DPSP) **prior** to the person's death must be included in his or her income. Such payments made **after** the person's death must be included in the income of the beneficiary. If the amount is first paid to the estate, which then allocates it to a beneficiary, you (as liquidator) must issue an RL-16 slip in the beneficiary's name, indicating the amount of the payment in box G of the slip. For further information, see the *Guide to Filing the RL-16 Slip* (RL-16.G-V).

Unlike amounts paid under an RRSP or a RRIF, the fair market value of the property in an RPP or a DPSP at the time of death is **not to be included in the income of the deceased**.

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### D. Home Buyers' Plan or Lifelong Learning Plan

If, prior to his or her death, the person withdrew amounts from an RRSP under the Home Buyers' Plan or the Lifelong Learning Plan, enter on line 154 of the **principal return** the amounts that had not been repaid to the RRSP **before the person's death**.

However, you (as legal representative) and the surviving spouse (if the latter is resident in Canada) may make a joint election whereby the amounts that were not repaid to the RRSP are not included in the income of the deceased. Under this election, the surviving spouse is deemed to have received the amounts from the RRSP and may repay them as if he or she were the original participant in the plan.

To find out what conditions must be met in order to make the election, contact the Ministère. If you are making the joint election, simply enclose a note to that effect with the **principal return** of the deceased.

### Special cases

If the person withdrew amounts from an RRSP after June 15, 1999, in order to participate in the Home Buyers' Plan, and was **required to include the amounts in income** for a previous year because he or she was not considered a first-time home buyer (in view of the fact that his or her spouse of the same sex owned and occupied a dwelling in which the person resided at some time during the five-year reference period), do not include the amounts not repaid under the Home Buyers' Plan in the person's income tax return.

935.6, 935.7

### E. Recovery of QSSP deductions

If the person held shares or securities in a Québec stock savings plan (QSSP) at the time of his or her death, and claimed a deduction in this regard for one or both of the two previous years, you are not required to include in his or her income tax return, or in the beneficiary's return, an amount corresponding to the recovery of the deduction. This is because shares or securities included in a QSSP are not considered to have been withdrawn upon the death of the person who owns them, and the deductions previously claimed are therefore not recovered.

965.21

However, as the shares and securities are deemed to have been disposed of at their fair market value immediately prior to the time of death, there may be a capital gain or a capital loss (see Chapter 5).

436

## Line 164 – Business income

If the person carried on a business, the income relating to a fiscal period ending in the year of death must be included in the **principal return**.

Business income earned from the end of the fiscal period to the date of death must also be included in the **principal return, unless you** (as legal representative) **elect** to include it in a **separate return** under section 1003 of the Taxation Act. Refer to the section “Separate return respecting income from a partnership or sole proprietorship,” in Chapter 2.

To report the deceased’s business income, you must submit his or her financial statements or complete form TP-80-V, *Income and Expenses Relating to a Business or Profession*, for each fiscal period. You must also complete Schedule L.

The property that the person used to carry on a business is deemed to have been disposed of at the time of death (see Chapter 5), as is any interest the person had in a partnership. For further information, contact the Ministère du Revenu.

1003

### Depreciable property

Capital cost allowance (CCA) may not be claimed for the year of death except with respect to a class 10.1 automobile, in which case the CCA is limited to 50% of the amount that could normally have been claimed for the year. This amount is determined on the basis of the ratio between the number of days in the fiscal period ending on the date of death and 365.

### Fiscal period of a business or professional practice

If the fiscal period ends on a date other than December 31, an amount of estimated additional income will have been calculated for 2001, to take into account income earned between the date on which the fiscal period ended in 2001 and January 1, 2002. You may subtract this income from the business income earned during the fiscal period that began in 2001 and ended in 2002. To do so, complete form TP-80.1-V, *Calculation of Business or Professional Income, Adjusted to December 31*.

The requirement to include such additional income does not apply to the year of death, provided an election to end the fiscal period on a date other than December 31 was made.

217.9

An adjustment must be made if the person died after the end of a fiscal period but before the end of the calendar year in which the fiscal period ended, and if the legal representative elects to have section 217.9.1 of the *Taxation Act* apply for the year or files a separate income tax return to report the business income earned in the “short period” (the period between the end of the fiscal period and the date of death).

The adjustment is made by including additional income in the calculation of business income in the principal return, and deducting the same amount in a separate return for a sole proprietorship. **The additional income is determined by applying the following formula:**

$(A - B) \times C / D$ , where

- A represents the net business income for fiscal periods ended in the year, other than the net income for the short period;
- B represents the lower of the following amounts:
  - the amount included in variable A that is deemed to be a taxable capital gain for the purposes of the taxable capital gains exemption (intangible capital property that is qualified farm property),
  - the amount claimed as a taxable capital gains exemption in the year;
- C represents the number of days in the short period;
- D represents the number of days in the fiscal periods of the business that end in the year (excluding the short period).

### Amounts receivable at the time of death

Where amounts are included in business income but have not been received by the end of the fiscal period, a reserve may generally be claimed. The taxation of the amounts is thereby spread out over a number of years. An amount deducted as a reserve for a given year must be added to the business income for the following year; however, depending on the balance receivable at the end of that year, it may be possible to determine a new reserve.

As no new reserve may be determined for the year of death, you must include in the deceased’s business income the reserve deducted at the end of the preceding year; however, do not enter this amount on line 31 of Schedule L. Special rules apply if the amounts receivable are transferred or assigned to the surviving spouse or a spousal trust. In this case, the legal representative and the beneficiary may make a joint election on form TP-453-V, *Election concerning the Deduction of a Reserve for the Year of Death*, with regard to the following property:

- property disposed of in the course of carrying on a business (section 153 of the *Taxation Act*);
- property whose disposition resulted in a capital gain (paragraph (b) of section 234, and paragraph (a) of section 279, of the *Taxation Act*);
- the unearned commissions of an insurance agent or broker (section 208 of the *Taxation Act*).

An amount corresponding to the reserve indicated on form TP-453-V must be included in the income of the surviving spouse or the spousal trust.

Contact the Ministère du Revenu for further information, or obtain a copy of form TP-453-V.

217.9.1, 452, 453, 1003

## 2002 reserve respecting business income for 1995

If an individual who carried on a business dies, the amount that was deducted in the year prior to the year of death, as a reserve respecting business income for 1995, must be reported as income in the **principal return** for the year of death. However, if the legal representative elects to have section 217.17 of the *Taxation Act* apply, or files a separate income tax return in order to report the business income for the “short period” (the period between the end of the fiscal period and the date of death), a new reserve may be deducted in the principal return. This reserve is equal to the lower of the following amounts:

- the amount calculated according to Part B of Schedule L of the income tax return (the maximum reserve, calculated as if the death had not occurred);
- the amount deducted by the legal representative.

The amount deducted as a reserve must then be included in the calculation of the business income in a separate return.

*217.17, 1003*

## Income from a partnership of which the deceased was a specified member

If the person was a specified member of a partnership, enter in the **principal return** his or her share of the partnership’s income or losses for the fiscal period that ended in the calendar year, before the date of the person’s death.

The person’s share of the partnership’s income for the period from the end of the last fiscal period to the date of death may be included in the **principal return** or in a **separate return**. See the section “Separate return respecting income from a partnership or sole proprietorship,” in Chapter 2.

If the person was a specified member of more than one partnership, the net loss sustained with respect to all of the partnerships may be claimed in the **principal return** only.

The death of a specified member of a partnership results in the deemed disposition of his or her interest in the partnership. For further information, contact the Ministère du Revenu.

## Line 205 – Contributions to an RPP

The amount to be entered on this line for registered pension plan (RPP) contributions the person made with respect to current services or past services rendered after 1989 must not exceed the deduction allowed in this respect on line 207 of his or her 2002 federal income tax return. If the person did not make RPP contributions respecting services rendered before 1990, or contributions under a retirement compensation arrangement (these contributions are deductible on line 103), the amount you enter on line 205 should correspond to the amount entered in box D of his or her RL-1 slip.

An additional deduction may be granted where the person made RPP contributions with respect to services rendered before 1990. This deduction, which may be claimed for the year of death or for the previous year, generally corresponds to the sum of the following amounts:

- the contributions made in the year of death, and
- the contributions made in previous years that could not be deducted because the annual thresholds had already been reached.

## Line 214 – Contributions to an RRSP

Enter the amount respecting RRSP contributions made by the person **before** his or her death. It should be noted that no payment may be made to an RRSP after the annuitant’s death.

Also enter the amount respecting contributions to a **spousal RRSP** made by the person during his or her lifetime, or made by the legal representative in the year of the person’s death and the first 60 days of the following year.

The deduction you claim on behalf of the deceased must correspond to the RRSP deduction claimed on line 208 of his or her federal income tax return for 2002. If the RRSP deduction claimed on the federal income tax return includes amounts transferred to an RRSP, do not take the transferred amounts into account on line 214. Instead, enter them on line 217.

## Line 217 – Deductible amounts used to determine net family income

As a rule, the deductions referred to in the guide to the income tax return may be entered on the **principal return**.

## Deductions for QPP contributions required on income from self-employment and for optional QPP contributions

If QPP contributions required on income from self-employment or optional QPP contributions are payable, you may claim on line 217 a deduction equal to 50% of the amount of these contributions. However, the amount of the deduction must be entered on the relevant income tax return, that is, either the principal return or a separate return.

## Line 225 – Deductible support payments

Take into account only deductible support payments, that is, payments not subject to the rules under which child support is not deductible from income.

Enter in the **principal return** (if it is being filed under the general tax system) the support payments paid by the deceased from January 1 to the date of death. Amounts of child support owed by the deceased, or paid by the estate after the date of death, are not considered support payments.

## Support-payment arrears

Support-payment arrears paid from January 1 to the date of the payer's death are deductible **only in the principal return** (filed under the general tax system). If the portion of the arrears that applies to previous years is at least \$300, it must not only be included in the amount on line 225 of the income tax return but also entered on line 277. The liquidator must complete form TP-766.2-V (*Averaging of a Retroactive Payment or of Support*), enclose the form with the principal return, and check box 404 of the return. The Ministère will calculate a tax adjustment, to be taken into account as a non-refundable tax credit.

If entitlement to the arrears was established after the death of the payer, the arrears are not deductible.

## Line 250 – Other deductions

As a rule, these deductions may be claimed in the **principal return** (filed under the general tax system). For further information, see the section pertaining to line 250 in the guide to the income tax return.

Funeral expenses cannot be claimed either in the income tax return of the deceased or in that of the testamentary trust.

## LINE 287 – Deduction for strategic investments

### QSSP deduction

Where a person acquired shares or securities in the year of death and included them in a Québec stock savings plan (QSSP), no deduction may be claimed unless the person died on December 31.

The deduction may be claimed in the principal return (filed under the general tax system) or in a separate return, but must not exceed the amount that could be claimed if only one return were being filed.

The death of a person does not result in the withdrawal of shares and securities from a QSSP of which the person was the beneficiary during his or her lifetime; consequently, there is no recovery of the QSSP deduction on line 154 of the income tax return. However, as the QSSP shares are deemed to have been disposed of at their fair market value at the time of death, there may be a capital gain or loss (see Chapter 5).

*965.18*

### Deduction respecting an investment in a Québec business investment company (QBIC) and deduction respecting a co-operative investment plan (CIP)

Where, in the year of his or her death, a person acquired common shares with full voting rights from a QBIC, or preferred shares in a co-operative authorized to issue securities that qualify for a

CIP, no deduction may be claimed respecting these acquisitions (or respecting the unused portion of the deductions for previous years) unless the person died on December 31.

The deductions may be claimed in the principal return or in a separate return, but must not exceed the amounts that could be claimed if only one return were being filed. If you are filing the principal return under the simplified tax system, only the CIP deduction can be claimed.

Deductions that are not claimed in the income tax return of the deceased may not be claimed by the beneficiary of the shares. As well, special rules apply in the case of QBIC shares that are transferred to a beneficiary. For further information, contact the Ministère du Revenu.

It should also be noted that, as the property is deemed to have been disposed of at its fair market value at the time of death, there may be a capital gain or loss (see Chapter 5).

*965.32, 965.37*

## Deduction for certified Québec films

The basic deductions and additional deductions must be claimed in only the **principal return** (filed under the general tax system). These deductions may be claimed only for complete fiscal periods that ended before the death. For information about the special rules applicable to investments in certified Québec films, contact the Ministère du Revenu.

## Line 290 – Net capital losses from other years

See Chapter 6 for information concerning the carry-over of net capital losses from other years and the carry-over of the net capital loss sustained in the year of death.

## Line 297 – Miscellaneous deductions

Certain deductions on line 297 of the income tax return may be claimed only in the return in which the related income is reported, whether this is the principal return (filed under the general tax system) or a separate return. These deductions are

- the deduction respecting a home-relocation loan;
- the deduction respecting a stock option or an option to purchase units in a mutual fund trust (for information about the measures applicable upon the death of a person, see the instructions in this chapter pertaining to line 101;
- the deduction respecting an amount exempt from income tax under a tax treaty or agreement;
- the deduction for employees of certain international organizations;
- the deduction respecting shares received in exchange for mining property.

If a deduction is split between two or more returns because the related income is also split between two or more returns, the total amount deducted must not exceed the deduction that could have been claimed if all the deceased's income had been reported in a single return.

**The other deductions on line 297 may be claimed only in the principal return (filed under the general tax system).**

### Calculation of non-refundable tax credits

If you decide to file **more than one income tax return for the year of death**, refer to Chapter 2 to find out which credits may be claimed in each return. Some credits may be entered in full in each of the returns; others may be entered only in the principal return; still others may be split between two or more returns.

**If the person was resident in Canada for part of the year only, you must** determine his or her non-refundable tax credits on the basis of the number of days, out of 365, during which he or she was resident in Canada. However, the credits may be claimed in full if more than 90% of the person's worldwide income for the period during which he or she was not resident in Canada is included in the calculation of his or her income.

#### Simplified tax system

If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the deductions and credits that are replaced by the flat amount of \$2,780. For further information, refer to the document *Two Tax Systems* in the "Forms" booklet.

### Line 361 – Amount with respect to age, for a person living alone or for retirement income

#### Amount with respect to age

It is possible for such an amount to be claimed in the return of a deceased person if the person was 65 or over at the time of death. To determine the amount, complete Parts A and B of Schedule B.

#### Amount for a person living alone

This amount may be claimed in the income tax return of a deceased person if, from January 1 to the date of death, the person maintained a dwelling in which he or she lived with no other person except a dependent child. To calculate the amount, complete Parts A and B of Schedule B.

#### Amount for retirement income

If the person received certain types of retirement income prior to death, you may be able to claim an amount in this respect. To calculate the amount, complete Parts A and B of Schedule B.

The amount with respect to age, the amount for a person living alone and the amount for retirement income are reduced progressively if the total of the income indicated on line 220 of all the income tax returns filed on behalf of the deceased is over \$26,700.

The total of the amounts (with respect to age, for a person living alone and for retirement income) may be split between the principal return and the separate returns. However, the amount claimed must not exceed the amount that could be claimed if only one income tax return were filed on behalf of the deceased.

### Calculation of net family income

The amount used for the purposes of determining the net family income (line 10 of Schedule B) must include the amounts reported as such in all of the returns filed for the year of death. However, do not take the spouse's income (line 12 of Schedule B) into account.

### Lines 362 to 366 – Amount respecting a spouse

As a rule, the amount you may claim in this respect in the income tax return of the deceased is \$6,060, **minus** the spouse's income (line 220 of the spouse's income tax return) for the entire year (after the CIP deduction and the **total** of the amounts entered on lines 293 and 295 of the spouse's return are subtracted from the amount on line 220).

If the person and his or her spouse were living apart at the time of death, you must take into account the surviving spouse's income (line 220) only for the period prior to the separation.

The amount respecting a spouse may be reported in the principal return (filed under the general tax system) and in each of the separate returns.

If the principal return is being filed under the simplified tax system, you cannot claim, on that return, the amount respecting a spouse on line 366. However, an amount respecting the spouse may be entered on line 380.

### Line 367 – Amount respecting dependent children or other dependants

In calculating these amounts, you must take into account the income of the children and the other dependants for the entire year (line 220 of their income tax returns).

The amount respecting dependent children or other dependants may be reported in the principal return and in each of the separate returns.

If another person also supported the deceased's dependent children or other dependants, the amount claimed may have to be divided. For further information, contact the Ministère.

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## Line 370 – Contributions to the QPP and the CPP

Enter on line 370 the amount indicated on line 98 as QPP and CPP contributions (maximum \$1,673.20). If the person had business income, see the instructions in this chapter pertaining to line 445.

The amount of QPP and CPP contributions must be claimed in the income tax return in which the related income is reported, whether this is the principal return (filed under the general tax system) or a separate return.

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## Line 371 – Employment insurance premiums

You may claim employment insurance premiums in the principal return (filed under the general tax system) or in a separate return, provided the total amount does not exceed the amount that could be claimed if only one return were filed.

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## Line 372 – Contribution to the health services fund

Complete Schedule F to determine the contribution to be made to the health services fund on behalf of the deceased. Take into account only the amounts indicated in his or her principal return. You may enter the contribution on line 372 of the principal return (filed under the general tax system).

752.0.13.5

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## Line 376 – Amount respecting a severe and prolonged mental or physical impairment

This amount may be claimed if the person had a severe and prolonged mental or physical impairment that lasted at least 12 months (or would have lasted at least 12 months, had the person not died), and if the conditions specified in the guide to the income tax return (line 376) are met.

This amount may be claimed in one or more of the income tax returns filed on behalf of the deceased, as long as it does not exceed the amount that could be claimed if only one income return were filed.

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## Line 380 – Amount respecting a spouse (simplified income tax return)

An amount respecting the surviving spouse may be claimed on line 380 of the **principal return** (filed under the simplified tax system) provided the following conditions are met:

- The deceased person supported his or her spouse at some time in 2002.
- At that time, the deceased person and his or her spouse were not living apart because of the breakdown of their relationship.

To determine the amount respecting a spouse, complete work chart 380.

The amount that may be entered, with respect to a spouse, in the deceased's tax return, is generally \$6,060 **minus** the spouse's income for the entire year (line 220 of his or her return). However, the following amounts must first be subtracted from the spouse's income: the total of the amounts on lines 293 and 295 of his or her return, and the amount claimed as a CIP deduction (strategic investments).

If the spouses were separated at the time of the death, take into account only the portion of the surviving spouse's income attributable to the period preceding the separation.

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## Line 381 – Amount for medical expenses

You may claim, in the principal return (filed under the general tax system) or a separate return, an amount for medical expenses that the deceased or his or her legal representatives paid over a period of 24 consecutive months (including the date of death), whether the expenses were paid before or after the date of death. The amount claimed must not exceed the amount that could be claimed if only one income tax return were filed.

To be allowable, the medical expenses must have been paid for the deceased person, his or her spouse, or a dependant. Complete Parts A and C of Schedule B to calculate the amount that may be claimed.

The principal medical expenses giving entitlement to a tax credit are listed in the guide to the income tax return (section pertaining to line 381). A more complete list is contained in the brochure *Medical Expenses Giving Entitlement to a Tax Credit* (IN-130-V).

The maximum amount that may be claimed is the portion of the medical expenses that exceeds 3% of the total of the amounts reported on line 220 of all income tax returns filed for the year of death. Do not take into account the income of the surviving spouse (line 12 of Schedule B).

752.0.11, 752.0.11.1 (m.1)

**Note:** If you are filing the principal return under the simplified tax system, you cannot claim, on that return, the amount for medical expenses (line 381). However, you may be able to claim a refundable tax credit for medical expenses (see the instructions for line 462, below.)

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## Line 384 – Amount for tuition or examination fees

You may claim an amount for the deceased's tuition or examination fees that were paid for 2002, as well as for the fees paid for 1997 through 2001 that were not previously used in the calculation of the tax credit. Complete Schedule M.

An amount may be claimed only if the fees for the year exceed \$100. **Only the student** may claim a tax credit for **his or her** tuition or examination fees, even if the fees were paid by another person.

The amount for tuition or examination fees may be claimed in the **principal return** (filed under the general tax system) or in a **separate return**. However, the amount claimed must not exceed the amount that could be claimed if only one income tax return were filed for the year of death. You will not be able to carry forward any fees that are not claimed. For further information on the tuition or examination fees that give entitlement to the credit, see the section pertaining to line 384 in the guide to the income tax return.

752.0.18.10 to 752.0.18.14

### Line 385 – Amount for interest paid on a student loan

You may claim an amount on line 385 if the deceased person or a person related to the deceased paid interest after 1997 on a student loan that was granted to the deceased under the *Act respecting financial assistance for students*, the *Canada Student Loans Act*, or the *Canada Student Financial Assistance Act*, or under the law of a province other than Québec, provided this interest was not previously used in the calculation of the amount.

To claim this amount, complete Schedule M of the income tax return.

You may claim this amount in the **principal return** (filed under the general tax system) or in a **separate return**. However, the amount entered must not exceed the amount that would give entitlement to the credit if only one return were filed. You will not be able to carry forward any interest that is not claimed.

### Line 386 – Amount transferred by the spouse or by a dependant, respecting a severe and prolonged mental or physical impairment

#### Amount transferred by spouse

You may claim, in the deceased's **principal return**, the amount respecting a severe and prolonged mental or physical impairment (line 376) not used by the surviving spouse to reduce his or her income tax. The amount to which the deceased was entitled but which was not used to reduce his or her income tax may be transferred to the surviving spouse.

Complete Part C of Schedule A of the income tax return.

### Amount transferred by dependant

This amount may be claimed in whole or in part on the principal return or on a separate return. However, the amount claimed must not exceed the amount that could be claimed if only one income tax return were filed.

Complete Part D of Schedule A.

### Line 389 – Charitable donations, gifts to a government and other gifts

#### Charitable donations

You may enter the amount of the deceased's charitable donations in one income tax return (either the **principal return** or a **separate return**), or you may split the amount between two or more income tax returns. Charitable donations made by the person during the year or during the five preceding years may be claimed, provided the donations give entitlement to a tax credit and have not already been claimed. If the receipts for the donations were included with a previous income tax return, enclose a note stating the year in which the donations were made and the amount carried forward.

The amount of charitable donations that you indicate on line 389 of a particular income tax return for the year of death must not exceed the amount on line 220 of the same return.

The portion of the donations made during the year that is not claimed in one of the income tax returns filed for the year of death may be carried to the income tax return for the previous year. To carry back such an amount, you must complete form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*. This form must be filed separately from any income tax return.

752.0.10.6, 752.0.10.9

Bequests (gifts made under a will) to a charity may also be claimed in the return for the year of death or the previous year, regardless of the year in which the amount is remitted to the recipient. A tax credit may also be claimed where amounts are remitted to a charity designated by the deceased as the beneficiary of an RRSP, a RRIF or a life insurance policy. These amounts cannot be claimed in the return filed for the estate.

752.0.10.10

#### Gifts to a government and other gifts

You may enter the amount of these gifts on line 389 of one income tax return (either the **principal return** or a **separate return**), or you may split the amount between two or more income tax returns. The amount of gifts made to the government of Canada or a province during the year or during the five preceding years may be claimed, provided the amount gives entitlement to a tax credit and has not already been claimed. If the receipts for the gifts were included with a previous income tax return, enclose a note stating the year in which the gifts were made and the amount carried forward.

The portion of the amount donated during the year that is not claimed in one of the income tax returns filed for the year of death may be carried to the income tax return for the previous year. To carry back such an amount, you must complete form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*. This form must be filed separately from any income tax return.

752.0.10.9

The amount respecting gifts to a government or other gifts that you indicate on line 389 of a particular income tax return for the year of death must not exceed the amount on line 220 of the same return.

Bequests (gifts made under a will) may also be claimed in the return for the year of death or the previous year, regardless of the year in which the amount is remitted to the recipient. A tax credit may also be claimed where amounts are remitted to the government of Canada or a provincial government designated by the deceased as beneficiary of an RRSP, a RRIF or a life insurance policy. These amounts cannot be claimed in the return filed for the estate.

752.0.10.10

### Line 420 – Tax reduction for families

The tax reduction for families may be claimed only in the deceased's **principal return**. The person must have been resident in Québec on the date of death.

When calculating income for the purposes of this tax reduction (Schedule B), you must take into account the total of the income reported in all returns filed for the year of death. The surviving spouse's income is not to be included on line 12 of Schedule B. However, the surviving spouse may also claim the reduction if he or she also supported the designated child. If this is the case, contact the Ministère du Revenu.

776.29, 776.32

### Line 422 – Tax credit respecting the acquisition of Capital régional et coopératif Desjardins shares

This tax credit cannot be claimed unless the person died on December 31.

### Line 424 – Tax credit with respect to a labour-sponsored fund

A tax credit with respect to a labour-sponsored fund may be claimed in the income tax return of a deceased person, provided the shares were purchased prior to the person's death. However, the credit cannot be claimed if the person was born before January 1, 1938, or if one of the situations described under "Special cases" (line 424 in the guide to the income tax return) applies to the person.

The tax credit with respect to a labour-sponsored fund must be claimed in the **principal return** of the deceased.

Any unused portion of the tax credit to which the person was entitled for previous years, may, under certain conditions, reduce the income tax calculated in the principal income tax return for the year of death.

776.1.1 to 776.1.4.1

### Lines 428 and 431 – Alternative minimum tax and carry-forward of alternative minimum tax (Schedule E)

The provisions respecting alternative minimum tax do not apply to a deceased person for the year of death. However, all or part of the alternative minimum tax paid for a previous year may be deducted in the **principal return** (filed under the general tax system) of the deceased person.

To request a carry-forward of the alternative minimum tax paid for a previous year, complete form TP-776.42-V, *Calculation of Alternative Minimum Tax*.

776.45, 752.12 to 752.16

### Line 445 – QPP contributions required on income from self-employment, and optional contributions

To determine the amount of QPP contributions you are required to pay on behalf of a deceased person who was self-employed, complete work chart 445 (the work charts are grouped together after the schedules of the income tax return). **However**, if the person was also an employee in the year of death, and you entered \$1,673.20 or more on line 98 of his or her return, **do not complete the work chart**; instead, enter \$1,673.20 on line 370. This contribution may be indicated in the **principal return** (filed under the general tax system) or in a **separate return**.

If you complete work chart 445, you must multiply the basic exemption (\$3,500) and the maximum pensionable earnings (\$39,100) by the proportion of 12 represented by the number of months the individual lived during the year (including the month of death). The amounts entered on lines 1, 2 and 8 of the work chart must correspond to the total of the income in question, as reported in all income tax returns filed for the year of death.

AQPP 41, 43

Simplified income tax system: If you are completing a simplified income tax return, you cannot claim a tax credit respecting your QPP or CPP contributions (line 370 of the general income tax return) for one-half of your QPP contributions required on in-

come from self-employment or for optional QPP contributions. However, you may claim a deduction equal to 50% of those contributions on line 217.

### Line 446 – Contribution to the health services fund

Complete Schedule F in order to calculate the contribution to the health services fund to be paid on behalf of the deceased. Take into account only the income reported in the **principal return**.

*ARAMQ 34.1.2, 34.1.5(b)*

### Line 447 – Premium payable under the Québec prescription drug insurance plan

Complete Schedule K in order to calculate the premium to be paid on behalf of the deceased. Provide the information requested regarding the deceased person only. Do not take into account the spouse's income (line 37 of Schedule K). See the section pertaining to line 447 in the guide to the income tax return (particularly the section "Other situations").

The premium payable under the Québec prescription drug insurance plan must be indicated in the **principal return** of the deceased. However, in calculating the amount of the premium, you must take into account the total of the income entered on line 220 of all the income tax returns filed for the year of death.

### Line 455 – Tax credit for child-care expenses

The refundable tax credit for child-care expenses may be claimed in the principal income tax return of a deceased person if the conditions set forth in the guide to the income tax return are met. To claim the credit, complete Schedule C and enclose it with the deceased's income tax return.

Even if the deceased person had a spouse at the time of death, the deceased is considered to be the only person supporting the child for the purposes of the calculation in Part A of Schedule C. In Part B of Schedule C, only the expenses paid by the deceased are to be taken into account. In the calculation of family income (Part F), the spouse's income (line 78) is not taken into account, since the deceased is not considered to have had a spouse on December 31; however, the income reported for the deceased in all returns filed for the year of death must be taken into account.

The surviving spouse may also claim a tax credit respecting the child-care expenses that he or she paid during the year, but must not take into account the income of the spouse who died during the year.

*1029.8.79*

### Line 459 – QST rebate for employees and partners

Claim this rebate in the return (principal **or** separate) in which the expenses giving entitlement to the rebate are being claimed. The rebate will be granted to the estate, which is not required to report it.

### Line 460 – Property tax refund

The property tax refund may be claimed on behalf of the deceased only if he or she died on December 31 and was resident in Québec on that date. For more information, see the guide to the income tax return (section pertaining to line 460). The property tax refund can be claimed in the **principal return** only.

The surviving spouse may claim the property tax refund on his or her income tax return, provided he or she does not have a new spouse on December 31. In calculating the refund, the surviving spouse does not take into account the deceased spouse's income for the year.

### Line 462 – Other credits

#### Refundable tax credit for medical expenses

The refundable tax credit for medical expenses may be claimed in the **principal return** if, at the time of death, the person was resident in Québec, was at least 18 years old, had earned income of at least \$2,500 and had resided in Canada throughout the year, up to the time of death. Consult the guide to the income tax return for more information.

To determine the credit, complete Parts A and C of Schedule B. On line 43 of Schedule B, you must take into account only the income shown on line 220 of the deceased person's principal return.

#### Tax credit for taxi drivers and taxi owners

The tax credit for taxi drivers may be claimed if the deceased held a taxi driver's permit during the year and was resident in Québec at the time of death.

If the person died on December 31, consult the guide to the income tax return (line 462) in order to find out whether you may claim the tax credit for taxi drivers or taxi owners.

The credit must be claimed in the **principal return**. Form TP-1029.9-V, *Tax credit for Taxi Drivers and Taxi Owners*, must also be completed.

*1029.9*

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**Line 476 – Refund transferred to the spouse**

The refund of a deceased person cannot be transferred to the surviving spouse. Nor can the surviving spouse transfer his or her own refund to the deceased's balance payable for the year.

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**Line 480 – Accelerated refund**

The accelerated refund cannot be granted with respect to the income tax return of a deceased person.

**Signature**

As the legal representative of the deceased person, you are required to sign the last page of the return or returns.

## Deemed disposition of capital property at the time of death

### A. General remarks

Chapter 5 explains how to determine the capital gains (or capital losses) resulting from the deemed disposition of the capital property owned by a person at the time of death.

If the capital property was acquired before 1972 or if, at the time of death, the person owned farm property, land or depreciable property used principally in the course of a woodlot operation, intangible capital property, resource property or land included in the inventory of his or her business, contact the Ministère du Revenu to find out the applicable rules.

For general information concerning capital gains or losses, consult the guide to the income tax return (section pertaining to line 139), or the brochure *Capital Gains and Losses* (IN-120-V), which are available from any office of the Ministère. If the person sustained a capital loss in the year of death, or if the estate sustained a capital loss in the first taxation year following the year of death, see also Chapter 6.

**Note:** It is possible that, in 1994 or 1995, the person made a deemed disposition of the property he or she owned on February 22, 1994. In such a case, the capital property is considered to have undergone a second deemed disposition at the time of the person's death, provided he or she still owned the property. To determine the capital gain that may result from the deemed disposition at the time of death, and to ensure that the capital gain resulting from the deemed disposition of February 22, 1994, is not taxed twice, you must take into account the adjusted cost base of the capital property on February 22, 1994. For further information, contact the Ministère.

### B. Deemed disposition of capital property at the time of death

The death of a person automatically results in the deemed disposition of the capital property he or she owned at the time of death. Capital property includes buildings, land, and vehicles; bonds; shares in the Fonds de solidarité des travailleurs du Québec (FTQ); shares in a Québec stock savings plan (QSSP); shares in an R&D venture capital corporation; shares in a Québec business investment company (QBIC); and preferred shares in a co-operative authorized to issue securities that qualify for a co-operative investment plan (CIP).

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If the deceased owned a stock option at the time of death, see "Purchase options," in the instructions for line 101 (Chapter 4).

### Property transferred to persons other than the spouse or a spousal trust

Where capital property is transferred, by reason of a person's death, to persons other than the spouse or a spousal trust, the **deemed proceeds of disposition** (that is, the proceeds of the deemed disposition) are equal to the fair market value of the property at the time of death. The result may be a capital gain, a capital loss, recapture of capital cost allowance or a terminal loss.

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### Capital gain or loss

If the deemed proceeds of disposition of capital property are higher than the **adjusted cost base** of the property, a capital gain results (see the definition of "adjusted cost base" at the beginning of this publication). A capital loss results if the deemed proceeds of disposition of capital property (**other than depreciable property**) are lower than the adjusted cost base. A special rule applies to capital property that is deemed to have been disposed of on February 22, 1994 (see note above).

Where capital gains exceed capital losses, you must determine the taxable capital gain to be entered on line 139 of the deceased's principal income tax return. On the other hand, where the total capital losses exceed total capital gains, or where the deemed disposition of capital property at the time of death gives rise only to capital losses, the result is a net capital loss. In certain cases, a net capital loss may be used

- to reduce the taxable capital gains realized during the year of death or the previous three years; or
- to reduce the income earned in the year of death, the previous year, or both years (in the latter case, the net capital loss is spread over two years).

See Chapter 6 for further information.

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### Depreciable property

A deemed disposition of depreciable property cannot give rise to a capital loss. It may, however, result in a terminal loss, provided the deemed proceeds of disposition (that is, the fair market value immediately before the time of death) are lower than the **undepreciated capital cost** of all the property in the class to which the property concerned belongs. If the depreciable property is rental property, the loss must be entered on line 377 of form TP-128-V, *Income and Expenses respecting the Rental of Immovable Property*, or taken into account in the statement of rental income and expenses. A terminal loss can be reported only in the **principal return**.

If the deemed proceeds of disposition are higher than the **undepreciated capital cost**, the excess amount may constitute a recapture of capital cost allowance and, where applicable, a capital gain. If the depreciable property is rental property, the recapture of capital cost allowance must be entered on line 375 of form TP-128-V (or taken into account in the statement of rental income and expenses) and reported in the principal return only. Use Part C of form TP-128-V to calculate the recapture of capital cost allowance or the terminal loss.

### Property transferred to a spouse or a spousal trust

If, by reason of a person's death, capital property is transferred or assigned

- to the **surviving spouse** (where the latter was resident in Canada at the time of the death), or
- to a **spousal trust** (where the trust was resident in Canada at the time the property was vested indefeasibly in the trust),

the deceased is deemed (unless the election referred to below is made) to have disposed of the property for proceeds equal to,

- in the case of capital property other than depreciable property, the adjusted cost base of the property at the time of death; or,
- in the case of depreciable property, the lower of the amounts in (1) or (2) below (as applicable):

(1) **if there is only one property in the class,**

- the capital cost of the property, or
- the undepreciated capital cost of the property;

(2) **if there is more than one property in the class,**

- the capital cost of the property, or
- the result of the following operation:

$$\frac{\text{capital cost of the property}}{\text{capital cost of all the property in the class that has not been disposed of}} \times \text{undepreciated capital cost of all the property in the class}$$

Where there is more than one property in the same class, you may choose the order in which the deceased person is deemed to have disposed of the property. In calculating the deemed proceeds of disposition, the capital cost and undepreciated capital cost of all the property in the class should be adjusted in order to exclude property respecting which a deemed disposition has already taken place.

The surviving spouse or the spousal trust is deemed to have acquired the property at a cost equal to the proceeds of disposition as calculated above. There is no capital gain or capital loss at the time of death, and, in the case of depreciable property, no terminal loss or recapture of capital cost allowance, since the amounts concerned will be included in the income tax return of the beneficiary or beneficiaries when the property is actually disposed of.

These rules apply only if it can be established, within 36 months following the date of death, that the property has been vested indefeasibly in the spouse or the spousal trust. The deadline may be extended, if a written request is submitted to the Minister of Revenue before the 36-month period has expired and if the Minister considers the request reasonable.

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### Election

As the legal representative, you may elect to have the deemed proceeds of disposition and the acquisition cost to the surviving spouse or the spousal trust each correspond to the fair market value of the property at the time of death. The election may result in a capital gain or capital loss, or, in the case of depreciable property, in a terminal loss or recapture of capital cost allowance (see "Depreciable property" above).

To make the election, enclose with the principal return of the deceased a letter advising the Ministère that the deemed proceeds of disposition of the property correspond to its fair market value at the time of death. The election must have been made on the federal income tax return.

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For information on the rules respecting the transfer, to a child, of farm property, or of land or depreciable property used principally in the course of a woodlot operation, contact the Ministère du Revenu.

## Carry-over of net capital losses

Chapter 6 explains how to treat the capital losses sustained by a person in the year of death. It also provides general information on net capital losses from previous years that were not deducted prior to the person's death, and on the capital losses or terminal losses sustained by the estate in the first taxation year following the year of death.

A **net capital loss** arises when the total of the allowable capital losses sustained in a given year exceeds the total of the taxable capital gains realized in the same year. To determine whether there is a net capital loss in the year of death, you must take into account the capital gains and losses resulting from the deemed disposition of capital property at the time of death (see Chapter 5).

### A. Net capital loss sustained in a year prior to the year of death

The net capital losses that the person sustained but did not deduct in the years prior to his or her death may be reported in the principal return (filed under the general tax system) and used to reduce the capital gain realized in the year of death. Any remaining portion of the losses can be used to reduce taxable income in the year of death or in the previous year. For further information, contact the Ministère du Revenu.

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### B. Net capital loss sustained in the year of death

You may deduct a net capital loss sustained in the year of death using method A or B (described in the following paragraphs). However, where the deceased's capital property is transferred or assigned to the surviving spouse or to a spousal trust, these methods apply only if you, as the legal representative, elect to have the deemed proceeds of disposition of the property correspond to the fair market value of the property at the time of death (see "Election," in Chapter 5).

#### Method A

A net capital loss sustained in the year of death can be used to reduce the taxable capital gains realized in the three years **preceding** the year of death. The loss may be carried back to one or more of the three years, provided the amount applied in a particular year does not exceed the taxable capital gain reported for that year.

If the full amount of the loss cannot be carried back, you may use any excess amount (from which you have subtracted any capital gains exemption claimed **prior to** the three years preceding the year of death\*) to reduce income for the year of death\*, the previous year, or both of these years. Enter the amount on line 290 ("Net capital losses from other years") of the income tax return.

#### Method B

The net capital loss sustained in the year of death may be claimed on line 290 of the income tax return for the year of death\* or the previous year (or a portion of the net capital loss may be claimed in each of these years). However, you must first subtract from the loss the amount of any capital gains exemption claimed after 1984.

#### Example (methods A and B)

Mr. White died in 2002. His tax situation is as follows:

Net capital loss sustained in 2002: (line 98 of Schedule G)	\$30,000
Capital gains inclusion rate for 2001 and 2002:	50%
Capital gains inclusion rate for 2000:	62.5% <sup>1</sup>
Capital gains inclusion rate for 1999:	75%
Taxable capital gains realized	
• in 2001:	\$1,500
• in 2000:	\$5,000
• in 1999:	\$6,000
<b>Total:</b>	<u>\$12,500</u>
Total exemptions on taxable capital gains claimed:	\$2,300

<sup>1</sup> Rate entered on line 161 of Schedule G of the 2000 income tax return.

(cont. next page)

\* In this case, the amount must be claimed in the **principal return** and filed under the general tax system.

## Example (continued)

	Method A	Method B
(1) Net capital loss	\$30,000	\$30,000
Adjustment of net capital loss (1999) [ $\$30,000 \times 75\% / 50\%$ ]	\$45,000	
<b>Minus:</b> taxable capital gains (1999)	– \$6,000	
(2) Subtotal	= \$39,000	\$30,000
Adjustment of net capital loss (2000) [ $\$39,000 \times 62.5\% / 75\%$ ]	\$32,500	
<b>Minus:</b> taxable capital gains (2000)	– \$5,000	
(3) Subtotal	\$27,500	\$30,000
Adjustment of net capital loss (2001) [ $\$27,500 \times 50\% / 62.5\%$ ]	\$22,000	
<b>Minus:</b> taxable capital gains (2001)	– \$1,500	
(4) Subtotal	= \$20,500	\$30,000
<b>Minus:</b> taxable capital gains exemption	– \$2,300	\$2,300
Amount to be deducted on line 290, for 2002 or 2001 <sup>2</sup>	\$18,200	\$27,700

<sup>2</sup> If you wish to claim the loss only in the principal income tax return for the year of death, do the calculations on a separate sheet and enclose the sheet with the income tax return. The procedure for carrying back a net capital loss is described in the paragraph that follows.

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## Procedure for carrying back a net capital loss

To carry a net capital loss to a previous year, do not file another return. Instead, complete form TP-1012.A-V, *Carry-Back of a Loss*, and enclose it with the deceased's income tax return. You must complete this form even if the income tax return for the year to which the loss is carried back was not filed prior to the time of death.

## C. Net capital loss or terminal loss sustained after the date of death

If, in the first taxation year of the estate, you (as legal representative) disposed of

- capital property of the estate, and this results in a capital loss or in capital losses that exceed capital gains, or
- all of the estate's depreciable property belonging to a prescribed class, and this results in a terminal loss in respect of the class at the end of the estate's first taxation year,

you may elect to claim the loss in the deceased's income tax return rather than in the trust return (form TP-646-V) of the estate. In the case of a terminal loss, the amount must not exceed the total of the trust's non-capital losses and farm losses, calculated as though the election had not been made. To make the election, complete form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*, and file it along with the documents mentioned in section 1054R1 of the *Regulation respecting the Taxation Act*.

The form and documents must be filed with the Ministère by the later of the following dates:

- the filing deadline for the income tax return (principal or separate) for the year of death; or
- the filing deadline for the trust return (form TP-646-V) for the first taxation year of the estate. (For further information, see Chapter 1, Section C.)

Be sure to write the note "Election made under section 1054" on the deceased's return. If you filed the return before the election was made, you must complete an amended return bearing the same note. The amended return must be filed with the Ministère by the later of the above-mentioned dates.

**Note:** This measure applies only to property that is disposed of by the estate and that was not transferred to the beneficiaries previously. The election has no impact on the deceased's income tax returns for years preceding the year of death.

1054, 1055

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