



BANKRUPTCY

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This guide is for information purposes only. It is not a legal interpretation of the *Taxation Act* or any other legislation.

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NOTE

The text entitled “You declared bankruptcy” was removed from the guide to the income tax return (TP-1.FG-V) and its content was included in this guide.



INTRODUCTION

Bankruptcy is a legal process under the *Bankruptcy and Insolvency Act* whereby you are discharged from your obligation to pay most of your debts. However, filing for bankruptcy entails obligations that may affect the way you report your income for the year of the bankruptcy or the way you claim deductions and tax credits. This guide explains the tax effects of bankruptcy and how to file an income tax return if you are bankrupt.

PROPOSAL TO YOUR CREDITORS

Before declaring bankruptcy or during the process, you can, under the *Bankruptcy and Insolvency Act*, make one of the following proposals to the natural or legal persons you have a debt to in order to lower your payments or extend the payment deadlines:

- a proposal in bankruptcy, regardless of the amount of your debts;
- a consumer proposal, if the amount of your debts (excluding those backed by a mortgage on your principal residence) does not exceed \$250,000.

If one of these proposals is accepted and you comply with its terms, you are not considered to have declared bankruptcy. As a result, you must file **only one income tax return by April 30** of the calendar year following the one in which you made your proposal.



YOUR TAX OBLIGATIONS

If you declare bankruptcy, you must file **two** personal income tax returns (form TP-1-V) for the year of the bankruptcy:

- the first for the period from **January 1 to the day preceding the date of the bankruptcy**;
- the second for the period from **the date of the bankruptcy to December 31**.

Both returns must be filed by April 30 of the calendar year following the year of the bankruptcy. However, if you or your spouse carried on a business, you have until **June 15** of that year to file the returns.

Be sure to enter the date of the bankruptcy and the period covered by the return (before or after the bankruptcy) on line 21.

Contributions and premiums

You must calculate the following **contributions and premiums** in **both** returns based on the income subject to the contributions and premiums for each period:

- the **Québec parental insurance plan (QPIP)** premium on income from self-employment;
- the contribution to the **health services fund**;
- the **Québec Pension Plan (QPP)** contribution on income from self-employment.

For the period from January 1 to the day preceding the date of the bankruptcy, the **QPIP** premium and the **health services fund** contribution is equal to your income subject to the QPIP premium or health services fund contribution for the period, multiplied by the contribution rate in effect.

For the period from the date of the bankruptcy to December 31, the QPIP premium and health services fund contribution are equal to the **lesser** of the following:

- the QPIP premium or health services fund contribution payable for the year **minus** the QPIP premium or health services fund contribution paid for the year preceding the bankruptcy;
- the QPIP premium or health services fund contribution for the year multiplied by the income subject to the QPIP premium or health services fund contribution for the period beginning on the date of the bankruptcy, divided by the income subject to the QPIP premium or health services fund contribution for the year.

For the period from January 1 to the day preceding the date of the bankruptcy, the **QPP** contribution is equal to your income subject to the QPP contribution for the period **minus** the \$3,500 exemption, multiplied by the contribution rate in effect.

For the period from the date of the bankruptcy to December 31, the QPP contribution is equal to the **lesser** of the following:

- the QPP contribution payable for the year **minus** the QPP contribution paid for the year preceding the bankruptcy;
- the QPP contribution for the year multiplied by the income subject to the QPP contribution for the period beginning on the date of the bankruptcy, divided by the income subject to the QPP contribution for the year.

However, to ensure that all self-employment income for the year is recorded in the Record of Contributors, you can choose to make QPP contributions on that income only in the return for the period after the bankruptcy while taking into account your income subject to the contribution for the entire calendar year.



To do so:

- Check the “Election concerning the calculation of QPP contributions on income from self-employment” box on line 21 of your return for the period before the bankruptcy.
- Enter the contribution payable for the entire calendar year in your return for the period after the bankruptcy.

Even if you make this choice, you must enter the contributions for each of the periods before and after the bankruptcy on line 98 of the corresponding income tax returns.

To calculate the premium payable under the **Québec prescription drug insurance plan**, complete Schedule K of the return for the period after the bankruptcy as though you had not declared bankruptcy. We will calculate the premium for that period for you.

Tax credits

You must claim one of the following tax credits in your return for the period after the bankruptcy, taking into account your income for the whole year, as though you had not declared bankruptcy.

- the age amount, the amount for a person living alone and the amount for retirement income;
- the amount for medical expenses;
- the tax credit for recent graduates working in remote resource regions.

You can claim the **solidarity tax credit** in your return for the period after the bankruptcy, taking into account only your income for that period.

You can claim the **home buyers’ tax credit** in your return for the period during which you purchased the qualifying home (either **before** or **after** the bankruptcy). The amount claimed must not exceed the amount you could have claimed for the year had you not declared bankruptcy.

You cannot claim a tax credit in the return for the period after the bankruptcy or in a future return for the following amounts paid before the bankruptcy:

- tuition or examination fees;
- interest on a student loan;
- charitable donations.

You cannot claim the **tax credit for tuition or examination fees**:

- in the returns for the period beginning after the date of the bankruptcy and ending on the date of your discharge from bankruptcy;
- in a return for a future year for the amounts paid in that period.

Enter **advance payments** of the following tax credits in the return for the period **after** the bankruptcy:

- the tax credit for childcare expenses;
- the tax credit for home-support services for seniors;
- the tax credit for the treatment of infertility;
- the work premium tax credits;
- the tax credit for caregivers.



Instalment payments

If you made instalment payments in the year of bankruptcy, enter them in the return for the period in which they were made (either **before** or **after** the bankruptcy).

Exceptions

You cannot deduct or carry forward an unused **capital loss** or **non-capital loss** sustained before the bankruptcy in the return for the period after the bankruptcy.

In addition, you cannot claim the **alternative minimum tax carry-over** relating to a year before the bankruptcy or the **carry-over of the adjustment of investment expenses** in the return for the period after the bankruptcy or for a future year.

Refund

You cannot claim an accelerated refund in the returns filed for the year of the bankruptcy.

If you are entitled to a refund in the return for the period before the bankruptcy, it may be applied to your tax debts before the date of the bankruptcy. If you are entitled to a refund in the return for the period after the bankruptcy, it may be applied to your tax debts for the period after the bankruptcy.

In addition, you cannot claim a refund or amount for a period or taxation year ending on the date of the bankruptcy in a return filed for a period or taxation year ending after that date.

The same rules apply following a proposal in bankruptcy or a consumer proposal.



TAX OBLIGATIONS OF AUTHORIZED TRUSTEES

At the time of the bankruptcy, an authorized trustee in bankruptcy is appointed under the *Bankruptcy and Insolvency Act* and the trustee is required to file any income tax returns you have not filed:

- for the taxation year that precedes the calendar year in which you declared bankruptcy;
- for the taxation year that begins on January 1 and ends on the day preceding the date of the bankruptcy;
- for the taxation years included in the period beginning on the date of the bankruptcy and ending on the date of discharge from bankruptcy, unless the trustee continues to administer your assets after the discharge.

Under section 782 of the *Taxation Act*, the trustee must also file, for the years included in the bankruptcy period (unless otherwise specified), the returns showing the income from bankruptcy transactions (i.e. rental income, investment income or RRSP withdrawals). The trustee must clearly write "Section 782" at the top of the return.

The trustee does not have these obligations for a proposal in bankruptcy or a consumer proposal.



DETERMINING THE DATE OF BANKRUPTCY

The date of bankruptcy depends on how you declare bankruptcy.

As of that date, you must meet certain obligations, such as assigning your property and giving the necessary documents to the authorized trustee in bankruptcy.

Bankruptcy date by situation

Situation	Bankruptcy date
You declare bankruptcy.	Date on which you file for the voluntary assignment of property with the official receiver
Bankruptcy is declared by court order upon the petition of a creditor.	Date of the bankruptcy order by the court
You are deemed to be bankrupt following an event.	Date of the event (for example, the date on which your creditors rejected your proposal in bankruptcy)

If your creditors reject your proposal in bankruptcy, you are not automatically considered to be bankrupt.



COMPLETING YOUR INCOME TAX RETURNS

Since you must file **two** income tax returns for the year of the bankruptcy, you need to know which return to use to claim any deductions and tax credits and how to calculate them. For more information, see the tables below. The line numbers refer to those in the guide to the income tax return (TP-1.FG-V).

Income tax return for the period from January 1 to the day preceding the date of the bankruptcy

Amounts you can claim in the income tax return for the period before the bankruptcy

Amounts and non-refundable tax credits	Contribution or premium based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Basic personal amount (line 350)	N/A	Yes
Adjustment for income replacement indemnities (line 358)	N/A	Yes ¹
Amount for dependants (line 367)	N/A	Yes
Amount transferred by a child 18 or over enrolled in post-secondary studies (line 367)	N/A	Yes
Amount for a severe and prolonged impairment in mental or physical functions (line 376)	N/A	Yes
Tax credit for tuition or examination fees transferred by a child (line 398.1)	N/A	Yes

1. If you started or stopped receiving income replacement indemnities in the calendar year, you must determine the number of days in the period covered by the return versus the number of days in the calendar year in which you received the indemnities.



Contributions and premiums payable²	Contribution or premium based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Québec parental insurance premium (QPIP) (line 439)	Yes	N/A
Québec Pension Plan (QPP) contribution on income from self-employment (line 445)	Yes ³	N/A
Contribution to the health services fund (line 446)	Yes	N/A

2. The contributions and premiums are provable claims in a bankruptcy, subject to the election in note 3 for QPP contributions.
3. You can opt to contribute to the QPP only in the return that covers the period that starts on the date of the bankruptcy. However, for calculation purposes you can use your pensionable earnings for the entire calendar year. That way, all income from self-employment can be entered in the Record of Contributors for the year. To do this, check the appropriate box on line 21 of the return that covers the period before the bankruptcy.



Income tax return for the period from the date of the bankruptcy to December 31

Amounts you can claim in the income tax return for the period after the bankruptcy

Amounts and non-refundable tax credits	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Basic personal amount (line 350)	N/A	N/A	N/A	Yes
Adjustment for income replacement indemnities (line 358)	N/A	N/A	N/A	Yes ⁴
Age amount (line 361)	N/A	Yes	N/A	N/A
Amount for a person living alone (line 361)	N/A	Yes	N/A	N/A
Amount for retirement income (line 361)	N/A	Yes	N/A	N/A
Amount for dependants (line 367)	N/A	N/A	N/A	Yes
Amount transferred by a child 18 or over enrolled in post-secondary studies (line 367)	N/A	N/A	N/A	Yes
Amount for a severe and prolonged impairment in mental or physical functions (line 376)	N/A	N/A	N/A	Yes
Amount for medical expenses (line 381)	N/A	Yes	N/A	N/A
Tax credit for recent graduates working in remote resource regions (line 392)	N/A	Yes	N/A	N/A
Tax credit for tuition or examination fees transferred by a child (line 398.1)	N/A	N/A	N/A	Yes

4. If you started or stopped receiving income replacement indemnities in the calendar year, you must determine the number of days in the period covered by the return versus the number of days in the calendar year in which you received the indemnities.



Tax credits and contributions and premiums payable	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Credits transferred from one spouse to the other (line 431)	N/A	Yes	N/A	N/A
Québec parental insurance premium (QPIP) on income from self-employment (line 439) ⁵	Yes	N/A	N/A	N/A
Québec Pension Plan (QPP) contribution on income from self-employment (line 445) ⁶	Yes ⁷	N/A	N/A	N/A
Contribution to the health services fund (line 446) ⁸	Yes	N/A	N/A	N/A
Premium payable under the Québec prescription drug insurance plan (line 447)	N/A	Yes ⁹	N/A	N/A

5. See page 6 for information on how to calculate this premium.

6. See note 5.

7. You can opt to contribute to the QPP only in the return that covers the period that starts on the date of the bankruptcy. However, for calculation purposes you can use your pensionable earnings for the entire calendar year. That way, all income from self-employment can be entered in the Record of Contributors for the year. For more information, see “You declared bankruptcy” in the guide to the personal income tax return (TP-1.G-V).

8. See page 6 for information on how to calculate this contribution.

9. Complete Schedule K as though you had not filed for bankruptcy. We will calculate the amount of your premium for the period that starts on the date of the bankruptcy.



Refundable tax credits	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Tax credit for childcare expenses (line 455)	N/A	Yes	N/A	N/A
Tax credits respecting the work premium (line 456)	N/A	Yes	N/A	N/A
Tax credit for home-support services for seniors (line 458)	N/A	Yes	N/A	N/A
Refundable tax credit for medical expenses (line 462)	N/A	Yes	N/A	N/A
Tax credit for caregivers (line 462)	N/A	Yes	N/A	N/A

Tax credit to be claimed in the income tax return	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Solidarity tax credit (Schedule D)	N/A	N/A	Yes	N/A



Example

Jeff is self-employed and declared bankruptcy on August 20, 2021.

Jeff's net business income for the period from January 1 to August 19, 2021 (the day before the date of the bankruptcy), was \$30,000. For the period from August 20 (the date of the bankruptcy) to December 31, 2021, his net business income was \$65,000. Jeff did not earn any other income in 2021.

He must therefore file two income tax returns for 2021:

- the first for the period from January 1 to August 19, in which he must report \$30,000 in net business income on line 164; and
- the second for the period from August 20 to December 31, in which he must report \$65,000 in net business income on line 164.

Jeff lives with his four-year-old son, Nathan. In 2021, Nathan received non-subsidized childcare. The RL-24 slip issued by the daycare shows that Jeff paid fees eligible for the tax credit for childcare expenses.

Jeff's medical bills for 2021 totalled \$3,800.

Amount, tax credit, contribution or premium	Income tax return for the period from January 1 to August 19, 2021	Income tax return for the period from August 20 to December 31, 2021
Basic personal amount for 2021 (\$15,728, line 350)	Jeff is entitled to an amount equal to the basic personal amount multiplied by the number of days in the period, divided by the number of days in the year. $\$15,728 \times 231 \text{ days} / 365 \text{ days} = \mathbf{\$9,953.88}$	$\$15,728 \times 134 \text{ days} / 365 \text{ days} = \mathbf{\$5,774.12}$
Amount for a person living alone (line 361)	N/A	Since Jeff's income (\$95,000) is greater than the maximum income (\$90,445) for 2021 (\$54,795 + \$35,650), he is not entitled to the amount for a person living alone.
Amount for medical expenses (line 381)	N/A	Jeff is entitled to the amount of medical expenses he paid minus the amount obtained by multiplying his total income for the year by 3%. $\$3,800 - (\$95,000 \times 3\%) = \mathbf{\$950}$
Québec parental insurance premium (QPIP) (line 439)	Jeff is required to pay a premium equal to his income subject to the QPIP for the period multiplied by the premium rate for 2021 (0.878%). $\$30,000 \times 0.878\% = \mathbf{\$263.40}$	Jeff is required to pay a premium equal to the lesser of the following: <ul style="list-style-type: none"> • the QPIP premium for the year minus the QPIP premium for the period preceding the bankruptcy $\\$733.13 - \\$263.40 = \mathbf{\\$469.73}$ • the QPIP premium for the year multiplied by the income subject to the QPIP for the period that starts on the date of the bankruptcy, divided by the income subject to the QPIP for the year $\\$733.13 \times \\$65,000 / \\$95,000 = \mathbf{\\$501.62}$



Amount, tax credit, contribution or premium	Income tax return for the period from January 1 to August 19, 2021	Income tax return for the period from August 20 to December 31, 2021
Québec Pension Plan (QPP) contribution (line 445)	Jeff is required to pay a contribution equal to his pensionable earnings for the period minus the \$3,500 exemption, multiplied by the contribution rate for 2021 (11.80%). $(\$30,000 - \$3,500) \times 11.80\% = \mathbf{\$3,127^{10}}$	Jeff is required to pay a contribution equal to the lesser of the following: <ul style="list-style-type: none"> the QPP contribution for the year minus the QPP contribution for the period preceding the bankruptcy $\\$6,855.80 - \\$3,127 = \mathbf{\\$3,728.80}$ the QPP contribution for the year multiplied by the pensionable earnings for the period that starts on the date of the bankruptcy, divided by the pensionable earnings for the year $\\$6,855.80 \times \\$65,000 / \\$95,000 = \\$4,690.81$
Contribution to the health services fund (line 446)	Jeff must calculate and pay his contribution based on his income subject to the health services fund for this period. He must subtract the qualifying threshold of \$15,360 from his income and multiply the result by the 1% contribution rate for 2021. $(\$30,000 - \$15,360) \times 1\% = \mathbf{\$146.40}$	Jeff is required to pay a contribution equal to the lesser of the following: <ul style="list-style-type: none"> the contribution to the health services fund for the year minus the contribution to the health services fund for the period preceding the bankruptcy $\\$565.90 - \\$146.40 = \\$419.50$ the contribution to the health services fund for the year multiplied by the income subject to the health services fund for the period starting on the date of the bankruptcy, divided by the income subject to the contribution for the year $\\$565.90 \times \\$65,000 / \\$95,000 = \mathbf{\\$387.19}$
Premium payable under the Québec prescription drug insurance plan (line 447)	N/A	Jeff must complete Schedule K as though he had not filed for bankruptcy. We will calculate the amount of his premium for the period that starts on the date of the bankruptcy. ¹¹
Tax credit for childcare expenses (line 455)	N/A	Jeff must complete Schedule C as though he had not filed for bankruptcy.
Solidarity tax credit (Schedule D)	N/A	Jeff's income for the period starting on the date of the bankruptcy (\$65,000) exceeds the maximum family income for a single-parent family with one dependent child (\$56,174).

10. Jeff could have opted to contribute to the QPP only in the return covering the period that started on the date of the bankruptcy while taking into account his pensionable earnings for the entire calendar year.

11. Jeff's premium is equal to the **lesser** of two calculations. However, this example shows only one calculation where the monthly premiums for the period preceding the bankruptcy (\$55.17 for the first six months of 2021 and \$59.17 for the following two months) are subtracted from the premium for the 2021 calendar year (\$686 for a person who must pay a premium for the entire year) and the result is multiplied by income for the period from the date of the bankruptcy to December 31 divided by income for the entire year: $[\$686 - (\$55.17 \times 6) - (\$59.17 \times 2)] \times \$65,000 / \$95,000 = \161.91 .



TO CONTACT US

ONLINE

revenuquebec.ca



BY TELEPHONE

Individuals and individuals in business

Monday to Friday: 8:30 a.m. to 4:30 p.m.

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Individuals and individuals in business

Montréal, Laval, Laurentides, Lanaudière and Montérégie

Direction principale des relations avec la clientèle des particuliers

Revenu Québec
C. P. 3000, succursale Place-Desjardins
Montréal (Québec) H5B 1A4

Québec City and other regions

Direction principale des relations avec la clientèle des particuliers

Revenu Québec
3800, rue de Marly
Québec (Québec) G1X 4A5

Businesses, employers and agents for consumption taxes

Montréal, Laval, Laurentides, Lanaudière, Montérégie, Estrie and Outaouais

Direction principale des relations avec la clientèle des entreprises

Revenu Québec
C. P. 3000, succursale Place-Desjardins
Montréal (Québec) H5B 1A4

Québec City and other regions

Direction principale des relations avec la clientèle des entreprises

Revenu Québec
3800, rue de Marly
Québec (Québec) G1X 4A5

Complaints – Bureau de la protection des droits de la clientèle

Revenu Québec
3800, rue de Marly
Québec (Québec) G1X 4A5

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