

TAX CREDIT FOR THE DEVELOPMENT OF E-BUSINESS

INVESTISSEMENT QUÉBEC

Tax Measures Department

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Tax Credit for the Development of E-Business

The Tax Credit for the Development of E-Business (“TCEB”) was put in place to provide financial assistance to specialized corporations that carry on innovative, high-value-added activities in the information technology (IT) sector, primarily in the fields of computer system design and software publishing.

The credit is also designed to consolidate the development of IT throughout Québec by fostering the maintenance and creation of IT jobs and supporting the growth of Québec businesses in all industries that wish to improve their efficiency and productivity by integrating into their business processes the information technologies that have been developed by specialized corporations.

NATURE OF THE TAX ASSISTANCE

This financial assistance is composed of a 24% refundable tax credit¹ and a 6% non-refundable tax credit² on eligible salaries, up to a maximum annual salary of \$83,333 per eligible employee. For further details, see page 10 of this guide.

ELIGIBLE CORPORATION

An eligible corporation is a company, other than an excluded corporation, that has an establishment in Québec where it operates a business in the IT sector during a given taxation year.

Under the *Taxation Act*, an excluded corporation, for the taxation year in question, means:

- a corporation that is exempt from income taxes for the year;
- a Crown corporation or a subsidiary wholly owned by such corporation.

In addition, to qualify for this tax credit, the corporation must obtain the following certificates from Investissement Québec:

- an eligibility certificate for the corporation, referred to as a “corporation certificate”;
- a certificate for each of the employees in respect of whom it is applying for a tax credit, referred to as an “employee certificate.”

These eligibility certificates must be obtained for each taxation year for which the corporation wishes to obtain the tax credit.

CORPORATION CERTIFICATE

Because this credit targets only corporations that are actively involved in the IT sector, a corporation must meet the following three criteria to obtain a corporation certificate:

- the criterion related to activities;
- the criterion related to services provided;
- the criterion related to the retention of a minimum number of jobs.

¹ The expression “refundable tax credit” means that the amount of the credit, less income taxes payable, will be paid to the eligible corporation.

² A 6% non-refundable tax credit was introduced in the 2015-2016 Budget Speech of March 26, 2015. Prior to that date, only the 24% refundable tax credit existed.

Criterion Related to Activities

The criterion related to activities is twofold. First, at least 75% of the corporation's gross revenue must be derived from activities in the IT sector. Activities in the IT sector refer to activities classified under the following North American Industry Classification System ("NAICS")³ codes, as amended from time to time:

- 334110 – Computer and Peripheral Equipment Manufacturing;
- 334220 – Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing;
- 334410 – Semiconductor and Other Electronic Component Manufacturing;
- 417310 – Computer, Computer Peripheral and Pre-Packaged Software Wholesaler-Distributors;
- 443144 – Computer and Software Stores ;
- 511211 – Software Publishers (except video game publishers) ;
- 511212 – Video Game Publishers ;
- 51821 – Data Processing, Hosting and Related Services;
- 541514 – Computer Systems Design and Related Services;
- 541515 – Video Game Design and Development Services;
- 561320 – Temporary Help Services (under certain conditions);
- 561330 – Professional Employer Organizations (under certain conditions).

Second, at least 50% of the corporation's gross revenue must be derived from activities classified under the following NAICS codes:

- 511211 – Software Publishers;
- 511212 – Video Game Publishers;
- 541514 – Computer Systems Design and Related Services;
- 541515 – Video Game Design and Development Services;
- 561320 – Temporary Help Services (under certain conditions);
- 561330 – Professional Employer Organizations (under certain conditions).

The two percentages of activities set out above (75% and 50%) based on NAICS codes must be respected either in the taxation year preceding the one covered by the eligibility certificate application, or in the taxation year covered by the application. However, they must both be satisfied in the same taxation year.

Nevertheless, if the taxation year preceding the one covered by the eligibility certificate application has fewer than 183 days, the gross revenue considered is that of the last taxation year prior to the given taxation year that has more than 182 days.

CONDITIONS TO BE MET TO INCLUDE PERSONNEL SUPPLY ACTIVITIES

NAICS codes 561320 and 561330 associated with personnel supply activities may be taken into consideration in the twofold criterion related to percentages of activities (75% and 50%) only if the following conditions are met:

- the activities associated with these two NAICS codes bear on the supply of employees **mainly** carrying out activities grouped under any of the following ten NAICS codes: 334110, 334220, 334410, 417310, 443144, 511211, 511212, 51821 541514 and 541515;

³ Since February 20, 2017, Investissement Québec has been using the NAICS 2017 version 2.0 codes. This update has resulted in few changes.

- the corporation's gross income earned from activities grouped under NAICS codes 561310, 561320 and 561330 for the taxation year is less than that earned from activities grouped under NAICS codes 511211, 511212, 541514 and 541515 for the same taxation year.

Criterion Related to Services Supplied

The criterion related to services supplied is met if at least 75% of the corporation's gross income from its activities grouped under NAICS codes 541514, 541515, 511211, 511212, 561320 and 561330 is attributable to the services described below:

- concerning the corporation's gross income from its activities grouped under NAICS codes 541514, 541515, 511211 and 511212, it is attributable to services:
 - whose ultimate recipient is a person or partnership with which the corporation is at arm's length;
 - relating to an application developed by the corporation and used exclusively outside Québec
- concerning the corporation's gross income from its activities grouped under NAICS codes 561320 and 561330, it arises from services the corporation supplies in the course of activities that simultaneously:
 - ultimately relate to applications that result from activities grouped under NAICS codes 511211, 511212, 541514 and 541515 that were developed:
 - either for the benefit of the personnel lessee to which the corporation supplies services in the course of activities grouped under NAICS codes 561320 and 561330;
 - or for the benefit of another person or partnership to which the personnel lessee supplies services in the course of activities grouped under NAICS codes 511211, 511212, 541514 or 541515;
 - are ultimately attributed to the services that result from activities grouped under NAICS codes 511211, 511212, 541514 and 541515, that is:
 - services whose ultimate recipient is a person or a partnership with which the corporation is at arm's length;
 - services relating to an application developed by the corporation or by the personnel lessee and used exclusively outside Québec.

For greater clarity, the "ultimate recipient" of services is a person or partnership that is a direct or indirect user of the applications developed by the corporation, and not that person's customers.

The criterion related to services supplied must be met in the taxation year covered by the eligibility certificate application.

The services supplied by a corporation to members of a cooperative or a federation of cooperatives are considered services supplied to a person with whom it is not at arm's length if the corporation is not at arm's length with the cooperative or the federation of cooperatives.

As for the condition relating to the use of an application exclusively outside Québec, Investissement Québec may consider that this condition is satisfied, even though an application is used in Québec, if such use in Québec is negligible compared to the overall use of the application. In this regard, Investissement Québec will consider in particular the impact of the application on the growth, in Québec, of activities relating to its use as well as the competitive impact of the increase in such activities on companies that already carry on similar activities in Québec.

CHANGE TO THE CRITERION RELATED TO SERVICES SUPPLIED

A change to the criterion related to services supplied was announced in the Budget Speech of March 26, 2015.

More specifically, the gross revenue earned from activities carried out by the employees of the eligible corporation cannot be taken into consideration for the purpose of this criterion when the results of such activities are incorporated into a product intended for sale or when their purpose is to ensure the operability of such a product.

This change applies to fiscal years commencing after March 26, 2015.

EXPANDED CONCEPT OF NON-ARM'S-LENGTH RELATIONSHIP

For the purposes of the criterion related to services provided, a corporation and another person that have an arm's-length relationship are deemed not to be at arm's length in any of the following situations:

- As a result of an agreement, the corporation has significant influence over the other person such that, if such influence were exercised, the other person would be under the de facto control of the corporation;
- The corporation that provides services to the other person is not at arm's length with a person who has significant influence as a result of an agreement concerning that other person.
 - For example: Corporation A provides services to Corporation B. Corporation A is not at arm's length with Corporation C, which exercises significant influence over Corporation B. Consequently, Corporations A and B are deemed not to be at arm's length from one another. The same holds true for Corporations B and C.

To this end, an agreement giving rise to significant influence includes:

- a concession contract;
- a licence;
- a lease;
- a marketing, procurement or management agreement;
- any other similar agreement or arrangement.

For greater clarity, "other similar agreement or arrangement" refers to an agreement whose primary purpose is to govern the relationship between a corporation and another person in respect to the manner in which a business operated by the other person is to be carried on.

Criterion Related to the Retention of a Minimum Number of Jobs

The criterion related to the retention of a minimum number of jobs is met if the corporation has retained a minimum of six eligible employees throughout the taxation year in question. If it does not fulfill this commitment, no eligibility certificate will be issued to the corporation for the taxation year in question.

Investissement Québec may, however, issue corporation and employee eligibility certificates if the eligible corporation is able to show that its failure to fulfill this commitment was due to exceptional circumstances beyond its control, such as the departure of employees or the impossibility of filling vacant positions. The employees must, nonetheless, be replaced within a reasonable period of time, in light of the availability of qualified labour. Circumstances related to a business start-up or a transfer of activities are not considered to be exceptional in themselves.

TRANSFER OF ACTIVITIES

Certain specific rules apply to transfers of activities. The transfers concerned are those requiring a minimum of six eligible employees at the time of the transfer.

Accordingly, the qualification of a corporation for a taxation year in which activities are transferred applies to **the portion of the taxation year** preceding or following the transfer, as the case may be. Moreover, the criteria related to activities, services provided and retention of a minimum of six eligible employees at all times must also be met **during that portion of the taxation year**.

Of course, where a corporation meets the qualification criteria for the entire taxation year despite a transfer of activities, it is not necessary to meet the criteria for the portion of the taxation year preceding or following the transfer, as applicable.

A transfer of activities includes a transfer resulting from the liquidation or winding-up of a corporation. Moreover, the qualification of the transferor or beneficiary of a transfer of activities is determined irrespective of whether the other party qualifies as an eligible corporation or not.

For example, even if the transferor of activities is not eligible for the TCEB because the transferred activities were not carried on in Québec prior to their transfer, or because the transferor did not satisfy the conditions relating to the percentages of activities, the corporation benefiting from the transfer of eligible activities may qualify as an eligible corporation for the portion of its taxation year following the transfer if it meets all the eligibility criteria for that portion of its taxation year.

BUSINESS START-UPS IN QUÉBEC

A start-up corporation may qualify as an eligible corporation even if it has not met the criterion regarding the retention of a minimum of six eligible employees at all times throughout the taxation year. More specifically, a start-up corporation may obtain a corporation certificate and an employee certificate for the portion of the taxation year that starts on the day the corporation's eligible activities required, at all times during this portion of the taxation year, a minimum of six eligible employees and that ends at the end of that taxation year.

In addition, the corporation must meet all the other criteria for that portion of the taxation year to obtain its eligibility certificates.

EMPLOYEE CERTIFICATES

An employee certificate certifies that the individual in question is recognized as an eligible employee of the corporation for the taxation year covered by the application or for a portion of the year indicated therein.

Eligible Employee

The expression "eligible employee" means an employee of an eligible corporation with an establishment in Québec for which Investissement Québec has issued an eligibility certificate certifying that the following conditions have been satisfied:

- the employee holds a full-time job involving at least 26 hours of work a week, for an expected minimum period of 40 weeks;
- he or she devotes at least 75% of his or her time to carrying out, supervising or directly supporting either the **eligible activities** of the eligible corporation or, if the employee is supplied to a customer of the corporation under a personnel supply agreement, the **eligible activities** of the customer.

Moreover, when an individual is temporarily absent from his or her work for grounds considered to be reasonable (e.g., temporary illness or maternity leave), Investissement Québec may, for purposes of determining whether the individual meets the conditions for being recognized as an eligible employee, deem that he or she continued to work and perform his or her duties throughout the period of absence, exactly as the individual had been doing immediately before the absence started.

Eligible Activities

For purposes of designating an employee as an eligible employee, the expression “eligible activities” means the following:

- information technology consulting services relating to technology, systems development or e-business processes and solutions (e.g., reconfiguration of business processes and technology architecture design) that a corporation performs for a person, insofar as these consulting services are related to the development, integration, maintenance or evolution of information systems or technology infrastructure, to the design or development of e-commerce solutions, or to the development of security and identification services that may be carried out for that person;
- development, integration, maintenance and evolution of:
 - information systems (e.g., distribution packages, software and computer programs);
 - technology infrastructure (e.g., technology architecture upgrading and integration of hardware and software components).

For greater clarity, activities relating to maintenance and evolution must be incidental to the development or integration activities carried on by the eligible corporation. These activities include any activity (other than a hardware installation activity) that is necessary to ensure the proper operation of systems and infrastructures or to resolve or prevent problems or incidents, provided it consists of:

- a technical corrective or preventive intervention that modifies one or more technical aspects of the components, including computerized processes; or
- a diagnostic activity, with remote access and control of systems and technology infrastructures, that leads directly or indirectly to such technical intervention;
- the design or development of e-commerce solutions, insofar as such activity consists of an e-commerce solution allowing a monetary transaction between the person on behalf of whom such design or development was carried out and that person’s customers;

For greater clarity, activities relating to the design or development of e-commerce solutions with which no monetary transaction is associated may nevertheless qualify as eligible activities, insofar as they are related to the development, integration, maintenance or evolution of an eligible information system;

- development of security and identification services (e.g., electronic imaging, artificial intelligence and interface) relating to e-commerce activities (e.g., security for Internet networks).

Excluded Activities

The following activities are not eligible activities:

- activities not related to **e-business**;
- the operation of an e-business solution (e.g., processing of electronic transactions over a transactional website);
- the management or operation of information systems, applications and infrastructures arising from e-business activities, that is, one of the following activities:
 - management of processing centres relating to e-business;
 - remote management of operations centres;
 - management of networks and systems, including systems monitoring;

- operation of business process outsourcing services related to the operation of an e-business solution (back office);
- management of business processes associated with the internal operation of an e-business solution (internal back office);
- the operation of a customer relations centre, that is, any of the following activities:
 - the operation of an existing customer relations management service, arising from e-business activities;
 - the operation of a first-level administrative or technical assistance service to businesses and to customers related to the use of an e-business solution, for example:
 - taking calls or emails;
 - support for users in the use of systems, applications and features;
 - monitoring and recording of requests;
 - the initial diagnosis and advice given to resolve incidents or problems;
 - the referral of incidents or problems to more specialized persons for resolution;
 - resetting passwords.
- hardware installation activities;
- training activities;
- administrative duties, such as management of operations, accounting, finance, legal affairs, public relations, communications, prospecting for mandates, and human and physical resources management;
- marketing-related activities involving an information system carried out to increase the visibility of a business and promote its goods and services with existing or potential customers. However, if an activity is related to an information system including a component that **partly** concerns marketing, that activity is not affected by this exclusion;

E-BUSINESS

The term “e-business” refers to a mode of operation that consists in changing the main commercial processes of a business by incorporating Internet or any other network technologies into them.

According to the Office québécois de la langue française terminology databank:

Companies use the Internet to do business, i.e. to communicate with their partners, access their central information systems and carry on commercial transactions. [...]

E-business precedes and extends the purely transactional exchanges relating to “e-commerce.” Its field of application is broader than e-commerce. E-business concerns the organization of work in a company as well as how the company communicates and exchanges data with its customers, subcontractors, suppliers and partners.

While e-commerce is associated with the company’s external processes, i.e., those affecting customers and suppliers, e-business covers both external and internal processes (human resources management, support systems, procurement and inventory management). [TRANSLATION]

Further information on the concept of e-business-related activities was provided in the Budget Speech of March 26, 2015.

More specifically, the activities must be **mainly** related to e-business to be eligible. Moreover, the activities will not be deemed to be related to e-business when the results of such activities are to be incorporated into a product intended for sale or when their purpose is to ensure the operability of such a product.

These changes apply to fiscal years commencing after March 26, 2015.

RATE OF THE CREDIT

Following the 2014–2015 Budget Speech of June 4, 2014 and the 2015–2016 Budget Speech of March 26, 2015, the credit rate was changed. The changes are shown in the following table:

The changes are shown in the following table:

Rate applicable to eligible salaries incurred before June 5, 2014 ⁽¹⁾	Rate applicable to eligible salaries incurred after June 4, 2014 ⁽¹⁾	Rate applicable to eligible salaries incurred after March 26, 2015
<ul style="list-style-type: none"> ▪ 30% credit on eligible salaries ▪ Maximum credit of \$20,000 per eligible employee (\$66,667 x 30%) 	<ul style="list-style-type: none"> ▪ 24% credit on eligible salaries ▪ Maximum credit of \$20,000 per eligible employee (\$83,333 x 24%) 	<ul style="list-style-type: none"> ▪ Total credit of 30% on eligible salaries: <ul style="list-style-type: none"> ○ 24% refundable ○ 6% non-refundable⁽²⁾ ▪ Maximum credit of \$25,000 per eligible employee: <ul style="list-style-type: none"> ○ \$20,000 (\$83,333 x 24%) ○ \$5,000 (\$83,333 x 6%)⁽²⁾

(1) Prorata applicable to eligible salaries for fiscal years that include June 4, 2014.

(2) The unused portion of the non-refundable tax credit can be carried back three tax years or forward 20 tax years. The sum carried over must apply to a tax year that ended after the March 26, 2015 budget and for which the corporation qualified for the TCEB tax credit.

ELIGIBLE SALARY

The expression “eligible salary” of an eligible corporation, for a given taxation year, means the salary calculated according to the *Taxation Act* and incurred by the eligible corporation, in the year, for an “eligible employee” for that year.

The eligible salary of an employee is limited to a maximum of \$83,333⁴ calculated yearly in proportion to the number of days in the corporation’s taxation year during which the employee is eligible. The total amount of the tax credit can therefore not exceed \$25,000⁵ per eligible employee, calculated on an annual basis.

Moreover, although the expression “eligible salary” is administered by Revenu Québec, this expression will be amended to exclude salaries incurred after September 30, 2015 in respect of work performed under contracts that are signed, renewed or extended with a Québec government body after that date.

⁴ This amount was amended following the 2014–2015 Budget Speech of June 4, 2014. Before the change, the maximum annual salary was \$66,667.

⁵ The total amount of \$25,000 includes a \$20,000 refundable credit and a \$5,000 non-refundable credit.

APPLICATION FOR REVIEW

A corporation that disagrees with a decision made by Investissement Québec may file an application for review within 60 days of the notification of the contested decision. To do so, it must send Investissement Québec the “Application for Review” form, which is available on our website at <http://www.investquebec.com/>. To be admissible, the application for review must be accompanied by the applicable fees.

AMENDMENT OR REVOCATION OF A CERTIFICATE

Investissement Québec may amend or revoke a certificate if information or documents justifying such an action are brought to its attention.

In this case, Investissement Québec will inform the corporation in writing of its intention to amend or revoke the certificate and will list the reasons on which its decision is based. The corporation has 30 days as of the date of the notification to present its arguments and file relevant documents, if applicable.

Note that it is important to inform Investissement Québec of any change likely to result in an amendment or a revocation.

Moreover, in the event that a corporation receives a tax credit, all or part of which it should not have received, Revenu Québec will recover the amount of the overpayment by means of a special tax.

PENALTIES

Any person who provides false or incorrect information or who obstructs the work of an Investissement Québec representative is guilty of an offence. In such cases, the person shall be subject to a fine of a minimum of \$2,000 and a maximum of \$25,000.

ELIGIBILITY APPLICATION AND CLAIMING OF TAX CREDIT

The application for the credit and calculation thereof are done at the end of the taxation year, when the corporation files its income tax return with Revenu Québec.

To receive this tax credit for a taxation year, an eligible corporation must enclose with its tax return:

- the form (CO-1029.8.36.DA) prescribed by Revenu Québec regarding the TCEB;
- the corporation certificate issued by Investissement Québec for the eligible corporation;
- the employee certificate issued by Investissement Québec for the eligible employees.

To apply for corporation and employee certificates, the corporation must complete the appropriate form, which is available on Investissement Québec’s website.

Issuance of a certificate does not guarantee that the tax credit will be obtained. Under the *Taxation Act*, the corporation must file its application for a refundable tax credit with Revenu Québec within 18 months; the application must include the certificates issued by Investissement Québec. This deadline is mandatory but may be extended by Revenu Québec in certain situations and under certain conditions, in particular when Investissement Québec receives a complete application by the last day of the fifteenth (15th) month following the end of the corporation’s fiscal year, at the latest.

Investissement Québec does not grant priority in processing files. If the application for corporation and employee certificates is filed after the expiration of the fifteenth (15th) month following the end of the corporation’s fiscal year, Investissement Québec cannot guarantee that the corporation will obtain the certificates before the expiration of the 18-month period following the end of its fiscal year.

Consequently, we strongly recommend that you submit the application for corporation and employee certificates **before the end of the fifteenth (15th) month** following the end of the corporation’s fiscal year.

Moreover, only complete applications will be processed. To be considered complete by Investissement Québec, the application for corporation and employee certificates must be duly signed and completed, including all appendices. It must contain all the required information and be accompanied by all the documents listed in the appendices.

ON-SITE VISIT

Investissement Québec reserves the right to visit the eligible corporation's facilities at any time during the eligibility period. The corporation must thus give Investissement Québec representatives access to the facilities and provide the information that may be required during the visit.

FINANCING OF THE TAX CREDIT

If you qualify for this tax credit, you could receive minimum financing of \$20,000 to help you put your cash to work sooner. Please visit the "Financial Products" section of the Investissement Québec website for more information.

INTERACTION WITH OTHER TAX CREDITS, ASSISTANCE OR BENEFITS

The tax legislation contains rules designed to prevent the aggregation of tax assistance for an expenditure that may give rise to more than one tax credit for more than one taxpayer or for the same taxpayer. These rules also apply to corporations eligible for the tax credit for the development of e-business.

In addition, the amount of salaries incurred by an eligible corporation, during a given taxation year, must be reduced by the amount of any government or non-government assistance and any benefit or advantage attributable to these salaries, according to the usual rules.

RATE SCHEDULE

Investissement Québec charges fees for processing eligibility applications, applications for review or applications for letters of interest related to the tax measures it administers. For more information, contact an Investissement Québec advisor or consult the [rate schedule](#) on our website.

This detailed fact sheet provides a summary of the main rules set out in Chapter XIII of Schedule A of the Act respecting the Sectoral Parameters of Certain Fiscal Measures and of certain provisions contained in the Québec Taxation Act. Other conditions may apply in certain cases. Thus, this fact sheet does not constitute an interpretation by Investissement Québec of the legislative provisions relating to this tax measure. For more information, please consult the official texts of the applicable laws.

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