

## E-COMMERCE PLACE Refundable Tax Credit for E-Commerce Place

The refundable tax credit concerning E-Commerce Place and the tax holiday granted for hiring foreign specialists help eligible companies make substantial gains in expertise and in capital. The objective is to make it easier to hire skilled personnel and recruit, whether here or abroad, the enlightened managers, daring designers and innovative researchers that make e-commerce a success.

This technical description deals solely with the assistance available to corporations under the "E-Commerce Place" measure. For more details regarding the tax holiday for foreign specialists, refer to the "Foreign specialist" detailed fact sheet.

The E-Commerce Place tax measure was eliminated in the 2003-2004 Budget Speech of June 12, 2003. However, transition provisions enable corporations, in certain cases, to benefit from this measure under the initial rules. Such information is shown within borders.

### Summary of Tax Assistance

The E-Commerce Place program offers eligible corporations the following tax benefits:

Refundable Tax Credit	Form	Length
Salary incurred for an eligible employee		
Businesses with an eligibility certificate	35 % of salary (up to \$12 500 per employee) <sup>1</sup>	From the initial eligibility certificate date to the end of the 5th year of operation.
	Rate changed annually, maximum of 35% of salary (up to \$12 500 per employee)	From the beginning of the sixth year of operation until the end of the tenth year of operation, but no later than December 31, 2013.

### Eligible Corporation

Any corporation, other than an excluded corporation, that carries on a business in Québec and has an establishment there may, under certain conditions, receive the tax assistance stipulated under the E-Commerce Place program.

To do so, the corporation must move into E-Commerce Place and obtain, from Investissement Québec, an eligibility certificate each year confirming that at least 75% of its activities in E-Commerce Place constitute eligible activities.

An excluded corporation, for a taxation year, means:

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<sup>1</sup> Since January 1<sup>st</sup>, 2001

- a corporation that is tax-exempt for the year;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

The CCE fiscal measure was eliminated in the 2003-2004 Budget. However, certain corporations may continue to benefit from this measure in accordance with the terms and conditions that applied before June 12, 2003 provided that they have satisfied either of the following requirements:

- The corporation must have obtained an eligibility certificate for this fiscal measure before June 12, 2003; or
- The corporation must have submitted its written application for an eligibility certificate before June 12, 2003 to Investissement Québec and must comply with the eligibility conditions. To be considered, such an application must be accompanied by the supporting documents required to determine the corporation's eligibility.

Despite the above, the corporation of which **control is acquired** after June 11, 2003, can no longer benefit from the CCE tax measure as of the taxation year deemed to begin at the time of the acquisition of control. Nevertheless, the corporation will continue to be eligible in the following situations, despite the acquisition of control:

- Control of an eligible corporation is acquired either by another corporation eligible for the same measure, or by a corporation that already controls another corporation eligible for the same fiscal measure;
- Control of the eligible corporation was acquired after June 11, 2003 following the exercise of existing rights or satisfaction of an obligation on such date.
- Control of the eligible corporation was acquired between June 11, 2003 and July 1, 2004 if the acquisition of control is the result of a transaction sufficiently advanced on June 11, 2003 and binding on the parties on such date.
- Control of an eligible corporation is acquired by a significant shareholder, i.e. a shareholder who held at least 25% (by votes and by value) of the shares of the corporation on June 11, 2003. Special rules apply in the case where control is acquired by a group of persons who together held at least 25% (by votes and by value) of the shares of the corporation on June 11, 2003.

On an exceptional basis, a corporation created as the result of **corporate restructuring** may obtain an eligibility certificate for this fiscal measure even if the eligibility application was submitted after June 11, 2003, provided that one of the corporations involved in the restructuring is an eligible corporation. The corporate restructurings covered by this exception are as follows:

- Amalgamation or merger, provided that control of the eligible corporation is not acquired during restructuring.
- Liquidation or winding-up by the parent company of an eligible corporation that is a wholly owned subsidiary.
- Corporate restructuring between two corporations that are part of the same corporate group, but only if the two corporations wanting to transfer eligible activities are owned in the same proportions by one person or by each member of a group of persons. However, where such corporate restructuring means that a specified corporation transfers or assigns **part** of its specified activities to another corporation that is part of the same corporate group, only one corporation may hold an eligibility attestation in connection with this fiscal measure;
- Corporate restructurings completed before June 12, 2003; and
- Corporate restructurings completed and finalized between June 11, 2003 and July 1, 2004, provided the corporate restructurings were sufficiently advanced on June 11, 2003 and were binding on the parties on such date.

In all cases, Revenu Québec is responsible for determining whether there has been acquisition of control.

## Eligible Activities

There are two kinds of eligible activities giving rise to the tax credit:

### ***Section 1: Development and Supply of Products and Services Relating to E-Business***

- information technology (IT), e-business solutions and process consulting services;
- development, integration and implementation of information systems and technology infrastructures;
- design and development of e-commerce solutions;
- development of security services relating to e-commerce activities;
- development of distribution software;
- development of electronic banking relating to e-commerce activities.

### ***Section 2: Operation of E-Business Solutions***

- processing of electronic transactions by means of a transactional website;
- management, operation, maintenance and development of systems, applications and infrastructures, i.e.:
  1. management of processing centres relating to e-business;
  2. remote management of operations centres;
  3. maintenance and development of e-business solutions and applications;
  4. management of local or wide-area networks;
  5. technical assistance services to businesses and clients, 24 hours a day, 7 days a week;
  6. management of a centre providing customer services arising from e-commerce activities;
  7. technological outsourcing;
  8. business processes:
    - a) outsourcing of business processes relating to the operation of an e-business solution (administrative support - back office);
    - b) business processes associated with the internal operation of an e-business solution (internal administrative support) in cases where:
      - i. they involve the centralization, consolidation and coordination of the corporation's back office activities in the same place;
      - ii. centralization of the corporation's business processes enables service to more than one of its establishments in Québec and elsewhere.

## Excluded Activities

Since eligible activities refer to development activities or to certain types of activities relating to the operation of an e-business solution, the following activities are excluded:

- repair and maintenance of equipment and hardware;
- manufacturing of machines, instruments, components, parts, hardware or equipment;
- assembly of parts or components (e.g. assembly of television receivers, computer monitors, calculators or cash registers);
- audio and/or video signal distribution services via broadcasting, telephony, cable distribution, satellites or other cellular networks;
- the operation of satellites, studios or television or radio networks (e.g. studio owner);
- film (including postproduction) and audiovisual production (including television programs) not related to a comprehensive e-business solution;
- teleconferencing services;
- Internet access suppliers, with the exception of corporations that offer this service in the course of supplying an e-business solution;

- publishing of books, newspapers or production of records (e.g.: commercialization, promotion and financing of applications);
- schools and organizations specializing in training;
- telemarketing activities;
- activities relating to surveys;
- business processes relating to the activities listed below:
  - human resources management;
  - credit card processing;
  - any activity that does not refer to an e-business activity or the management, maintenance and development of centralized and computerized infrastructures and systems.

## **Eligible Employee**

The expression “eligible employee” means an employee of the establishment of the eligible corporation located in E-Commerce Place for whom Investissement Québec has issued an eligibility attestation.

For each taxation year of the eligible corporation, an eligibility certificate is issued to an employee who satisfies the following conditions during such year:

- he is employed at the establishment of the eligible corporation located in E-Commerce Place;
- he holds a full-time job, involving a minimum of 26 hours of work per week, for a stipulated minimum of 40 weeks;
- almost all of his duties consist in carrying out, supervising or directly supporting work relating to the execution of an eligible activity by the eligible corporation;
- he carries out his duties either at the establishment of the eligible corporation located in E-Commerce Place or elsewhere, but in relation with the mandates attributable to such establishment.

In the latter case, an eligible employee must have a reasonable area for his use in the establishment of the corporation located in E-Commerce Place.

In general, duties relating to the administration of the eligible corporation such as management of the operations, accounting, finances, legal affairs, communications and human and physical resources management may not be considered as relating to the execution of an eligible activity. Accordingly, employees assigned to the following duties in particular are excluded:

- telemarketing representative;
- staff assigned to management and to administrative support duties (accounting, control, collections, receiving, senior management, executive personnel, staff in legal affairs, finance, etc.);
- staff assigned to handling.

However, an employee assigned to business process activities is eligible provided his duties are related to:

- management and operation of computerized and centralized systems;
- data entry and processing;
- processing requests of a technical nature relating to the operation of the technological environment, equipment orders, remote technology support, etc.

## **Refundable Tax Credit**

This credit reduces tax payable: it is “refundable”. Therefore, if the credit to which the business is entitled is greater than tax payable, the difference can be paid to the eligible corporation. Similarly, if the eligible corporation has no tax payable for a given taxation year, the tax credit can be paid to it in full.

An eligible corporation may, independently for each taxation year, irrevocably elect, at the time of the initial application to obtain the tax assistance for a taxation year, to receive a refundable credit for the employer contribution to the Health Services Fund (HSF) instead of a refundable tax credit.

However, an eligible corporation may not make such an election before filing its tax return for such taxation year or more than twelve months after the filing deadline applicable to it for such taxation year.

In addition, such an election, for a taxation year, must cover all the tax assistance the eligible corporation may receive for such year. Accordingly, an eligible corporation established in E-Commerce Place may not receive both a refundable tax credit and a refundable credit for the employer contribution to the HSF at the same time for the same taxation year.

Lastly, it should be pointed out that a corporation that, for a taxation year, elects to claim a refundable credit of employer contributions to the HSF instead of the refundable tax credit for corporations established in E-Commerce Place may not, for such taxation year, reduce its instalment payments regarding such tax assistance.

## **Eligibility Period**

Corporations that carry out eligible activities in E-Commerce Place following the conclusion of a lease, may claim a tax credit regarding eligible salaries incurred for a period of ten years beginning on the date the lease is concluded.

## **Initial Attestation Date**

The effective date of the corporation's initial eligibility attestation corresponds to the date the eligible corporation concludes a lease for premises in a building in E-Commerce Place and determines the time as of which the corporation may claim tax credits for salaries paid to eligible employees.

## **Eligible Salary**

In general, eligible salary consists of the salary incurred regarding an eligible employee during a taxation year. In practice, it consists of the items that make up employment income and that generally must be included for the purposes of withholding tax at source and filing of Relevé 1.

The amount of salaries must be reduced by the amount of any government assistance, any non-government assistance, and any profit or benefit attributable to such salaries, according to the usual rules regarding refundable tax credits. For more details, refer to the publications and information available from Revenu Québec.

## **Interaction with Other Tax Credits, Assistance, Benefits, etc.**

As of April 22, 2005, reimbursement of assistance, a benefit or another amount that previously served to reduce the amount of salaries for the purpose of calculating the tax credit awarded to the corporation will be added to the amount of the salaries for application of the tax credit to which that taxpayer will be entitled.

Furthermore, as of April 22, 2005, a special income tax will be payable during the year in which a taxpayer receives, is entitled to receive or may reasonably expect to receive assistance, a benefit or another amount attributable to an expense by that taxpayer for which a tax credit will have been awarded.

## **Adjusted Rate**

The adjusted rate of the tax credit corresponds to the rate determined annually, depending on job creation, beginning in the sixth year of operation, for each year of an eligible corporation in the E-Commerce Place. The rate thus determined, for a year of operation, applies to the eligible salaries incurred during such year of operation.

## **Annual Attestations**

An eligible corporation may claim in its annual tax return, the refundable tax credit for salaries paid to eligible employees.

However, before filing its tax return for a taxation year, the eligible corporation must obtain, from Investissement Québec, the eligibility attestations relating, for such year, to its employees:

- The eligibility attestation regarding the corporation's activities certifies that at least 75% of its activities in E-Commerce Place, for a given taxation year, constitute eligible activities.
- The eligibility attestation regarding employees confirms that the employees concerned carry out on a full-time basis the duties required for the purposes of the eligibility of their salary for the tax credit.

## **Annual Monitoring**

When filing its tax return for each taxation year in which it claims tax assistance, a “eligible corporation” must:

- Demonstrate to Investissement Québec that it occupies premises in E-Commerce Place or, as the case may be, if premises are not yet available for occupancy, demonstrate that it maintains its lease to occupy such premises as soon as possible;
- Obtain from Investissement Québec the eligibility certificates regarding its activities and the employees for whom the credit will be claimed. These certificates must be enclosed with the tax return filed with Revenu Québec for the taxation year for which the tax credit is claimed (taxation year of the expenditure).

Concerning the latter condition, the Taxation Act allows the corporation 18 months following the last day of the taxation year for which the tax credit is claimed to file its eligibility certificates. However, this could require that the corporation amend its tax return.

Applications for annual eligibility certificates are filed using the forms available on Investissement Québec's web site. They can also be obtained from the Department of Fiscal Measures of Investissement Québec.

Finally, to ensure the corporation does not lose its entitlement to the tax credit, applications for annual attestations must be filed with Investissement Québec before the end of the fifteenth (15th) month following the end of the corporation's fiscal year. To be valid, the application must be duly completed and accompanied by all the documents required for issuing of the attestation.

## Calculation of the Tax Credit

The tax credit under the E-Commerce Place program is calculated in two parts. During the first five years of operation, the tax credit is calculated at a fixed rate. As of the sixth year of operation, the tax credit is calculated at an adjusted rate. The rates of the tax credit are determined as follows:

- First five years of operation: the rate of the tax credit regarding eligible salaries is equal to 35%.
- Beginning in the sixth year of operation: the rate of the tax credit can vary depending on whether or not the eligible corporation created a sufficient number of jobs in Québec.

Starting in its sixth year of operation, the eligible corporation annually determines the adjusted rate that will apply for the purposes of calculating the tax credit. This rate of tax credit, for a year of operation, is determined using the following formula, and may not exceed 35%:

$$[ 2 * (MSQ \text{ tx} - MSQ \text{ to}) / MSC \text{ tx} ] * 35 \%$$

Where:

- the variable MSQ tx represents the eligible corporation's total payroll in Québec for the calendar year ended before the beginning of the year of operation for which the adjusted rate of tax credit is calculated;
- the variable MSQ to represents the eligible corporation's total payroll in Québec for the calendar year preceding the one during which the eligible corporation started its operations in E-Commerce Place;
- the variable MSC tx represents the payroll attributable to eligible employees of the establishment of the eligible corporation located in E-Commerce Place, for the calendar year ended before the beginning of the year of operation for which the adjusted rate of tax credit is calculated. For greater clarity, such payroll does not include the portion of the salary of an eligible employee in excess of \$35 714.29.

The date of the beginning of operations of an eligible corporation in E-Commerce Place is the date on which a lease for premises in E-Commerce Place is concluded.

The total payroll in Québec of an eligible corporation, for a calendar year, means the total salaries paid in Québec during such year by the eligible corporation and by any employer with which the eligible corporation is associated at the end of such year. Furthermore, special rules stipulate that the total payroll in Québec of an eligible corporation, for the calendar year preceding the one during which it started its operations in E-Commerce Place, is not adjusted to consider associations, mergers, winding-up of corporations and business acquisitions that take place during the calendar years ending in the first four years of operation of the corporation in E-Commerce Place.

## Special Tax

If a wage expenditure for which a tax credit has been granted is refunded to the eligible corporation or if the eligibility certificate is revoked by Investissement Québec, the tax credit will be recaptured by means of a special tax stipulated by the *Taxation Act*.

## Interim Financing of the Tax Credit

Investissement Québec may offer, in certain cases, a loan guarantee to ensure interim financing of the tax credit.

## Rate Schedule

Since September 1, 2004, Investissement Québec has charged fees for the analysis of any application for eligibility relating to the tax measures it administers. For more information on this topic, please consult the [rate schedule](#) available on this Web site.

*The statements in this detailed fact sheet constitute a summary of the fiscal policy taken from various publications of the ministère des Finances du Québec and the Taxation Act. Other conditions may apply in certain cases.*

*While it may refer to certain provisions, of the Taxation Act in particular, this description is not an interpretation by Investissement Québec of the legislative provisions relating to the tax measure.*

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