# MAJOR EMPLOYMENT-GENERATING PROJECTS
# Refundable Tax Credit for Major Employment-Generating Projects

To consolidate the development of information technologies throughout Québec while encouraging companies to locate and expand here, a refundable tax credit was introduced for major employment-generating projects in this sector.

Companies in the information technology sector contribute to the creation of quality jobs, often filled by young graduates who have just joined the labour market. In light of the keen international competition, it is important to maintain jobs in this promising sector, to offer opportunities for future workers in this field and to limit the exodus of skilled workers.

## Nature of the Tax Assistance

Generally speaking, this tax assistance consists of a refundable tax credit equal to 20%[1] of the eligible salaries incurred by an eligible corporation. An eligible corporation may claim this tax credit until December 31, 2016.

## Eligible Corporation

Any corporation, other than an excluded corporation, which, during a given taxation year, carries on a business in Québec whose activities carried out in the course of an eligible contract, are encompassed within the information technology sector, can claim for such year, under certain conditions, the refundable tax credit for major employment-generating projects.

An excluded corporation, for a taxation year, means:

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

To do so, however, such a corporation must obtain an initial eligibility certificate from Investissement Québec confirming that it operates in the information technology sector and that, according to Investissement Québec, it is reasonable to expect that the eligible contract concluded by the corporation will result in the creation of at least 150 eligible jobs within a period of 24 months. However, for eligible contracts for which the 24-month period has not ended by January 1, 2009, the job creation period will be 36 months. Please see the following page for the starting date for calculating these periods.

[1] Following the 2014−2015 Budget Speech of June 4, 2014, the rate of 25% was reduced to 20%. The new rate applies to eligible salary expenditures incurred after June 4, 2014.

## Creation of at Least 150 Eligible Jobs

Investissement Québec must determine whether it is reasonable to expect that the eligible contract will result in the creation of at least 150 jobs within the 24- or 36-month period, as the case may be.

In evaluating whether this eligibility criterion has been met, Investissement Québec takes the following elements into account:

- the corporation's history;
- nature of the services rendered and the project's place within the industry;
- volume and value of services;
- calendar for delivery of services and creation of jobs;
- description of jobs;
- guarantee of minimum volume;
- availability of resources:
- progress of projects and existing or conditional commitments;
- risk factors;
- any other criterion deemed relevant under the circumstances.

Evaluation of the corporation's project is based on the initial analysis of the application, which takes into account the content of the contract and other relevant elements external to it.

## Starting Date for Calculating the Job Creation Period

The starting date for calculating the 24- or 36-month period depends on the date the eligibility certificate is issued for the eligible contract, i.e.:

- For certificates issued **before** December 20, 2007,
  - the starting date is the date the activities covered by the contract begin.

- For certificates issued **on or after** December 20, 2007,
  - the starting date is either December 31, 2008 or the date the activities covered by the contract begin, whichever comes first.

## Period for Creating At Least 150 Eligible Jobs (Grace Period)

The corporation has a period of 24 or 36 months, as the case may be, to create at least 150 eligible jobs. During this period, the corporation may claim the tax credit before it attains the minimum level of job creation. However, if the corporation does not attain the minimum level of 150 eligible jobs within the allotted period, the terms regarding the revocation of eligibility certificates and the recovery of the tax credit will apply. The grace period ends immediately before the maintenance period begins.

## Maintenance Period for the 150 Eligible Jobs

An eligible corporation must not only attain the minimum level of job creation, but also maintain this level for a period determined by Investissement Québec.

The job maintenance period begins on the last day of the initial 24- or 36-month period in which at least 150 jobs are created by the corporation within the framework of the eligible contract. More specifically, if the corporation attains the 150-job level and temporarily ceases to attain this level within the grace period, the maintenance period will begin the last time the corporation attains this level, before the end of the 24- or 36-month period.

If an eligible corporation is unable to maintain the minimum level of job creation for the entire maintenance period for an eligible contract, Investissement Québec will cease to certify the eligible employees for any portion of the maintenance period for which the minimum level of job creation is not maintained. If the corporation subsequently maintains the minimum job creation level again, Investissement Québec will continue to certify the eligible employees for the subsequent portions of the period during which the maintenance conditions are met.

## Phasing-Out Period

The phasing-out period corresponds to the last continuous 6 or 12 months of an eligible contract. If the eligible contract is for a term of more than four years, the phasing-out period allowed may be up to 12 months. If the contract term is four years or less, the permitted phasing-out period may be up to 6 months. During this period, the corporation may maintain less than 150 jobs and still claim the tax credit.

In other words, the corporation will have a period of 6 to 12 months prior to the end of its contract in which it can claim the tax credit without having to maintain a minimum level of jobs.

However, to benefit from this phasing-out period, the corporation must maintain a minimum of 150 eligible jobs for at least half of the 12-month period immediately preceding the phasing-out period.

## Premature Termination of a Contract

In the event that an eligible corporation prematurely ends a fixed-term contract or ceases its activities covered by an eligible contract as a result of bankruptcy, a case of force majeure, business transfer or any other similar event, it may not benefit from the phasing-out period. Corporations with an open-ended contract may benefit from a phasing-out period only if they carry on eligible activities until December 31, 2016, the presumed contract termination date.

## For example:

- A corporation carries out a 6-year eligible contract, the performance of which began on January 1, 2007 and for which the applicable 24-month period ended on December 31, 2008;
- The corporation attains the 150-job level for the first time on November 1, 2007;
- It then ceases to maintain the 150-job level from January 1, 2008 to November 30, 2008, then attains it again on December 1, 2008.

The corporation's grace period is from January 1, 2007 to November 30, 2008.
The job maintenance period begins on December 1, 2008 and ends on December 31, 2011.
The corporation's phasing-out period extends from January 1, 2012 to December 31, 2012.

## As a result:

- The corporation may claim the tax credit from January 1, 2007 to November 30, 2008, before it attained the minimum level of 150 eligible jobs.
- The corporation may claim the tax credit for each day in the period from December 1, 2008 to December 31, 2011 during which it maintains 150 eligible jobs.
- The corporation may claim the tax credit for the year 2012, regardless of the number of jobs maintained, only if it had at least 150 eligible jobs for at least half of the 12-month period ending on December 31, 2011 (January 1 to December 31, 2011).

## Eligible Contract

For the purposes of the refundable tax credit, "eligible contract" means a contract that has been concluded by a corporation and for which Investissement Québec has issued a certificate confirming that activities included under one of the following three eligible sections are carried out as part of the contract:

It should be noted that e-business includes activities involving the exchange and distribution of information, the supply of services and e-commerce. E-commerce consists in the sale and purchase of products and services on the Internet.

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

- information technology (IT) and e-business process and solutions consulting services;
- development, integration and implementation of information systems and technology infrastructures;
- design and development of e-business 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 an E-Business Solution***

- processing of electronic transactions by means of a transactional web site;
- 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. technology outsourcing;
    6. 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 one location;
            ii. the centralization of the corporation's business processes enables the corporation to serve more than one of its establishments in Québec and elsewhere.

➢ ***Section 3: Operation of a Customer Contact Centre***

- management of relations with existing clientele stemming from e-commerce activities, when the products sold are related to information technologies;
- technical support for companies and clients (help desk) related to use of an e-business solution or a product that provides for its use;[2]
- client support directly related to use of an e-business solution.

The corporation must also meet the following conditions:

- with the exception of corporations offering management of relations with existing clientele stemming from e-commerce activities, the corporation carries on activities consisting mainly of incoming calls;
- the corporation carries on activities in a specialized field and its employees have specialized training;
- the corporation uses a technological environment, made up of different media, providing for the convergence of new technologies.

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[2] Only activities related to the technical aspect of the product are potentially eligible. Note that management of subscriptions to cellular telephone service (changing plans, for example) or warranties on a product providing for the use of an e-business solution do not constitute eligible activities.

## Excluded Activities

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

- installation, repair and maintenance of equipment and hardware;
- manufacture 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);
- traditional services transmitting audio or visual signals via television broadcasting, telephony, cable television, satellites or other cellular networks that do not provide for use of an e-business solution;
- 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;
- conference calling services;
- Internet access suppliers, with the exception of corporations that offer this service in the course of supplying an e-business solution;
- book or newspaper publishing or record production; (e.g., commercialization, promotion and financing of applications);
- schools and organizations specializing in training;
- telemarketing activities;
- activities relating to surveys;
- business processes relating to:
  - 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.

These activities are given for illustration purposes. This list is not exhaustive.

## Continuation of Business

Generally speaking, in order to benefit from the tax credit for major employment-generating projects, the eligible corporation must itself have concluded a contract for which a certificate has been issued by Investissement Québec. However, under certain continuation rules, a corporation continuing the operations of a business whose activities are part of an eligible contract concluded by another corporation, may be recognized as an eligible corporation for application of the tax credit if it meets the other conditions, including those related to the creation and maintenance of jobs. The corporation continuing to operate the business of the corporation that concluded the eligible contract does not have to be an associated company in order to be recognized as an eligible corporation for the purposes of the tax credit.

## Other Considerations

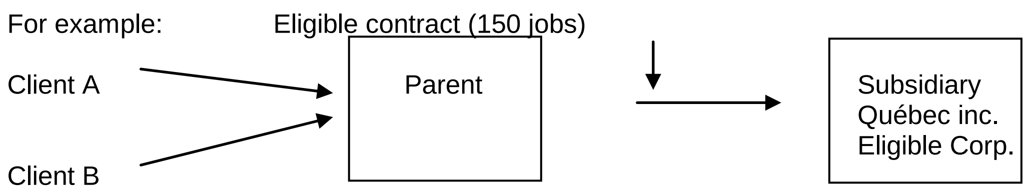
To be eligible, a contract must be concluded after December 31, 2004 and before January 1, 2008. However, a contract concluded during this period is not eligible if the majority of the activities covered by such contract have previously given rise to tax assistance administered in part by Investissement Québec. Investissement Québec is responsible for determining whether the majority of the activities covered by a contract have previously given rise to such tax assistance. In determining this, Investissement Québec may consider both the activities carried out and the number of employees whose functions were devoted to these activities and for whom eligibility certificates have previously been issued.

For example, if an eligible corporation signs an eligible contract and some of the activities covered by the contract have already given rise to previous assistance, Investissement Québec has to determine, based on all the criteria, whether the contract is eligible. One of the criteria involves assessing whether the number of employees covered by tax assistance prior to the starting date of the 24- or 36-month period was less than 50% of all the employees assigned to these activities 24 or 36 months later. This means that Investissement Québec will verify whether the corporation eligible for this fiscal measure has more than doubled, in the 24 or 36 months, the number of employees carrying out these activities and who were covered by an eligibility certificate for another fiscal measure administered in part by Investissement Québec (e.g., refundable tax credit for e-business activities).

In such a case, in order to retain its status as an eligible corporation until the end of its eligible contract[3], the corporation must maintain a number of jobs equal to twice the number of employees who were covered by a previous fiscal measure plus one, even if this exceeds the minimum job creation level of 150 jobs. Should the eligible corporation fail to attain the required number of jobs before the end of the 24- or 36-month period applicable to it for an eligible contract, Investissement Québec will revoke the eligibility certificates issued to the corporation.

Furthermore, a contract concluded between an eligible corporation and a person with whom it is not at arm's length may not qualify as an eligible contract. However, a subcontract concluded between an eligible corporation and a person with whom it is not at arm's length may qualify as an eligible contract if the eligible corporation can demonstrate to Investissement Québec that such a contract relates to services ultimately supplied to a person with whom it deals at arm's length and to a business carried on by such person outside Québec. In addition, the activities subcontracted to a person with whom it does not deal at arm's length must be activities that were not already carried out in Québec. The criterion of 150 employees working to carry out the contract applies to the subcontract concluded between the eligible corporation and the person with whom it is not at arm's length and not to the initial contract concluded between the latter and the international client.

For example:




Note: Clients A and B outside Québec, at arm's length with the parent and/or the subsidiary.

## Eligible Employee

"Eligible employee" means an employee of an establishment in Québec of the eligible corporation for which Investissement Québec has issued an eligibility certificate, for a given taxation year, confirming that the following conditions have been met:

- the employee holds, in the course of carrying out the eligible contract, a full-time job, with a minimum of 26 hours of work a week, for a stipulated minimum of 40 weeks;
- at least 75% of his or her duties are devoted to carrying out, supervising or directly supporting activities carried out in the course of the eligible contract;
- the employee is not a specified shareholder of the eligible corporation.

Moreover, administrative tasks such as operations management, accounting, finance, legal affairs, public relations, communications, prospecting for mandates as well as human and physical

[3] No later than December 31, 2016

resources management are not considered tasks relating to the completion of an activity carried out in the course of an eligible contract.

If an eligible corporation carries out more than one eligible contract, the duties of some employees may be devoted to supporting the activities carried out in the course of a number of contracts, and the proportion of such duties may be less than 75% for each such contract.

In that case, such a corporation may still claim the tax credit for eligible salaries incurred for such employees. Thus, an employee may qualify as eligible, in relation to each of the eligible contracts carried out by his or her employer, if at least 75% of his or her duties are devoted to carrying out, supervising or directly supporting the activities carried out in the course of such eligible contracts, considered as a whole. However, for the purposes of the minimum level of job creation, such an employee is considered to be working on carry out a single eligible contract.

In addition, although Investissement Québec cannot issue an eligibility certificate for an employee of an eligible corporation, for a given period, if it has already issued, for such period, an eligibility certificate for the same employee under another refundable tax credit or the refundable credit for employer contributions to the HSF for corporations located in E-Commerce Place, Investissement Québec may consider such an employee in the minimum level of job creation in Québec for the purposes of the refundable tax credit for major employment-generating projects.

For greater clarity, Investissement Québec may issue an eligibility certificate for a portion of a taxation year of an eligible corporation, in which case the eligibility certificate must indicate the employee's eligibility period.

Lastly, for a given taxation year, an eligible corporation may claim a tax credit for salaries paid to a maximum of 2,000 eligible employees. However, if an eligible corporation is associated with one or more eligible corporations at any time during such given year, the limit on the number of eligible employees will be established on a consolidated basis, i.e., by including the eligibility certificates issued for the eligible employees of each eligible corporation that is part of such a group. For greater clarity, the associated eligible corporations must divide the limit of 2,000 eligibility certificates among themselves and file an agreement to that effect with Revenu Québec, according to the usual rules.

## Eligible Salaries

The "eligible salaries" of an eligible corporation, for a given taxation year, refer to the salaries calculated according to the *Taxation Act* and incurred by the corporation, in the year, for its eligible employees for such year.

The eligible salary for an eligible employee is limited to $60,000, calculated on an annual basis and according to the number of days in the taxation year of the eligible corporation during which the employee qualifies as an eligible employee. Accordingly, the amount of the tax credit, for a taxation year, may not exceed $12,000 per eligible employee, on an annual basis[4].

The eligible corporation must have paid the eligible salaries when it claims the tax credit from Revenu Québec.

[4] This amount was changed following the 2014−2015 Budget Speech of June 4, 2014. Prior to the change, the maximum amount of the credit was $15,000.

## Refundable Tax Credit Eligibility Period

The refundable tax credit for major employment-generating projects may be granted to an eligible corporation for the eligible salaries it incurs and pays its eligible employees as of the starting date of the activities covered by the eligible contract, provided this date is after December 31, 2004. The corporation's eligibility period for the said credit normally ends when the activities provided for in the contract end, without exceeding December 31, 2016, when the eligibility criteria are met.

## Deadline for Certificate Applications

For any eligible contract, the eligible corporation must file its certificate application by **no later than March 31, 2008**.

## Payment of Tax Credits

Subject to subsequent recovery if a corporation fails to meet the eligibility conditions, the earned tax credit may be claimed by the corporation in its annual tax return before it attains the minimum level of job creation, provided it has obtained an initial certificate.

## Other Application Details

The refundable tax credit for major employment-generating projects may be applied against the instalment payments of an eligible corporation in relation to income tax and the tax on capital, according to the usual rules.

Moreover, Investissement Québec may revoke an eligibility certificate issued to an eligible corporation for an eligible contract if Investissement Québec has reason to believe that the eligible corporation would not have obtained the eligibility certificate had it its application disclosed the true facts. In such a case, Investissement Québec will send Revenu Québec a copy of the revoked eligibility certificate of the eligible corporation.

## Nature of the Tax Credit and Claim

This tax credit is refundable. When the credit exceeds the tax payable, the corporation can obtain a refund of such excess. The tax credit is calculated and claimed at the end of the taxation year when the corporation files its tax return. In addition, the tax credit obtained is taxable.

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

However, to receive this tax credit, for a given taxation year, an eligible corporation must enclose the following documents with its tax return for such year:

- a form prescribed by Revenu Québec,
- the eligibility certificate issued by Investissement Québec to the eligible corporation for its eligible contract,
- the annual eligibility certificate issued for the eligible employees.

Annual certificate applications are filed using the forms available on Investissement Québec's web site. They can also be obtained from Investissement Québec's Department of Fiscal Measures.

In order to ensure that you receive your tax credit, your annual application for an eligibility certificate must be submitted to Investissement Québec before the end of the fifteenth (15th) month following the corporation's fiscal year end. If you submit your annual application for an eligibility certificate after this date but before the end of the eighteenth (18th) month following the corporation's fiscal year end, Revenu Québec may extend the certificate issuance period, but only under exceptional circumstances. If the application is submitted to Investissement Québec after the 18th month following the corporation's fiscal year end, no extension will be granted. To be considered valid by Investissement Québec, the annual application for an eligibility certificate must be duly signed, completed, and accompanied by all documents requested on the application form, including a proxy, if required.

## Special Tax

If the eligible salaries for which a tax credit was granted are reimbursed to an eligible corporation, in whole or in part, the tax credit granted for the amount so reimbursed will be recovered by means of a special tax.

Similarly, if an eligible corporation fails to attain the minimum level of 150 eligible jobs before the end of the 24- or 36-month period for an eligible contract, the eligibility certificates issued to it will be revoked by Investissement Québec and the tax credits previously granted, if any, will be recovered by means of a special tax.

## Interaction with Other Tax Credits, Assistance and Benefits

The tax legislation contains rules designed to prevent the accumulation of tax assistance regarding an expenditure that may give rise to more than one tax credit, for more than one taxpayer or for the same taxpayer. For greater clarity, these rules also apply to corporations eligible for the refundable tax credit for major employment-generating projects.

A similar rule applies to ensure that, if the activities of an eligible corporation are covered both by this tax credit and by a tax holiday, the activities carried out in the course of an eligible contract that may give rise to this tax credit cannot constitute eligible activities for the purposes of such a tax holiday. As a result, the tax holiday granted to an employee and arising from the eligibility of a corporation for such a tax holiday also cannot be granted.

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

## Fee Schedule

Since September 1, 2004, Investissement Québec has charged fees for examining eligibility applications for the fiscal measures it administers. For more information, please contact an Investissement Québec adviser or consult the rate schedule available on this web site.

*This document is a summary of the fiscal policy and has been taken from various publications by the Ministère des Finances du Québec as well as the Taxation Act. Other conditions may apply in certain cases.*

*Although it may refer to certain provisions, in particular to the Taxation Act, this document is not an interpretation by Investissement Québec of the legislative provisions pertaining to the fiscal measure.*

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