



# **TAX CREDIT FOR CORPORATIONS SPECIALIZED IN THE PRODUCTION OF MULTIMEDIA TITLES**

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**INVESTISSEMENT QUÉBEC**

**Tax Measures Department**

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# Refundable Tax Credit for Corporations Specialized in the Production of Multimedia Titles

## CAUTION

Investissement Québec's role is to validate compliance with the sectoral parameters set out in the *Act respecting the sectoral parameters of certain fiscal measures*. Moreover, where applicable, it is responsible for issuing a certificate of specialized corporation to a corporation for a taxation year, that at least 75% of the activities it carries on in Quebec consist of producing, for itself or on behalf of another person or partnership, eligible titles and, where applicable, to carry out scientific research and experimental development related to these titles.

Revenu Québec alone is responsible for determining whether the corporation's tax expenditure is recognized for the purposes of the *Taxation Act*. Consequently, it is the responsibility of the corporation to ensure that it complies with all fiscal parameters, including those mentioned under subparagraph b of section 1029.6.0.1 of the *Taxation Act*.

A first refundable tax credit for the production of multimedia titles (general component) was introduced in the Budget Speech of May 9, 1996. In the Budget Speech of March 31, 1998, a second tax credit was introduced solely for specialized corporations, namely corporations whose activities consist largely of producing multimedia titles.

The Tax Credit for the Production of Multimedia Titles is intended, among other things, to foster development of the video game industry and titles for which the conditions governing the user's participation in the action of the title are met for all or substantially all of the action.

## NATURE OF THE TAX MEASURE

The Tax Credit for Corporations Specialized in the Production of Multimedia Titles is a refundable tax credit, meaning that the amount of the credit, less income taxes payable, will be paid to the eligible corporation. The amount of this tax credit is determined on the basis of the amount of the eligible labour expenditures incurred in the production of eligible multimedia titles. The rate ranges from 26.25% to 37.5%, depending on the category to which the eligible multimedia title produced by the corporation belongs.

## ELIGIBLE CORPORATIONS

An eligible corporation for a taxation year is a corporation that has an establishment in Québec where it operates an eligible business.

Under the *Taxation Act*, the following corporations cannot be eligible corporations for a given taxation year:

- a corporation that is tax-exempt 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 in respect of the corporation's activities, referred to as the "specialized corporation certificate";
- an eligibility certificate in respect of all the eligible titles, referred to as the "production work certificate."

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

## **SPECIALIZED CORPORATION CERTIFICATE**

A specialized corporation certificate is issued to a corporation for a taxation year if at least 75% of its activities in Québec consist in producing eligible multimedia titles for itself or for another person or partnership and, where applicable, in carrying out scientific research and experimental development related to such titles.

## **ELIGIBLE MULTIMEDIA TITLES<sup>1</sup>**

To be eligible, a title must satisfy the following conditions:

- it includes an appreciable quantity of three of the following four types of data in digital form: text, sound, fixed images and animated images. However, a title will be deemed to satisfy this condition if it is intended for customers with a disability. Video images alone cannot be considered to constitute an appreciable quantity of sound and animated images for the purpose of qualifying a multimedia title;
- it is produced on electronic media and controlled by software that allows for interactivity.

### *APPRECIABLE QUANTITY*

The quantity of an element is considered appreciable when the absence of that element would compromise the proper functioning of a title (or part of it) or substantially affect the relevance of the title.

The following kinds of titles cannot be considered eligible titles:

- titles that are essentially interpersonal communication services (e.g., videoconferencing, electronic bulletin boards, chat rooms, etc.) and online transactional services (e.g., teleshopping, virtual shopping centres, electronic ticketing, online payment systems, etc.);
- titles intended to present a for-profit business, publicize its activities or promote its products and services;
- titles that encourage violence, sexism or discrimination;
- titles that comprise explicit sex scenes or graphic representations of such scenes.<sup>2</sup>

Thus, Investissement Québec must exclude any multimedia title or related title that it deems ineligible on the basis of the applicable criteria and identify such title as an “excluded title” on the certificate it issues the corporation.

## **Title That Is Part of Another Title**

A corporation (subcontractor) that produces part of a multimedia title (quality control, for example) for the title’s producer may claim a tax credit for its eligible labour expenditures in respect of that part of the multimedia title if the corporation producing the title has no establishment in Québec.

The eligibility of the part of a title in regard to an “eligible multimedia title” is determined on the basis of the multimedia title and not the part of the title.

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<sup>1</sup> Eligible multimedia titles include eligible related titles that qualify for the Tax Credit for the Production of Multimedia Titles – General Component or Specialized Corporations Component. For more information on eligible related titles, please refer to the “Tax Credit for the Production of Multimedia Titles – General Component” detailed fact sheet.

<sup>2</sup> Budget tabled by the Ministère des Finances on March 25, 2021.

## ELIGIBLE RELATED TITLES

“Eligible related title” refers to a product that meets the following conditions:

- it includes an appreciable quantity of three of the following four types of data: text, sound, fixed images and animated images. However, a title will be deemed to satisfy this condition if it is intended for customers with a disability;
- it is related to a main multimedia title that is covered by intellectual property rights or a licence held by the corporation producing the title or a corporation associated with that corporation so as to be covered by such right or licence;
- it is not an excluded related title.<sup>3</sup>

However, given its nature, a related multimedia title is not considered as intended to present a for-profit business, provide information on its activities or promote its products or services for the sole reason that it is intended to promote the main multimedia title to which it is related.

## Main Multimedia Title

To be considered to be a “main multimedia title” in relation to a related title, a title must meet the following conditions:

- it is produced either by the corporation that produces the related title or by an associated corporation;
- it includes an appreciable quantity of three of the following four types of data in digital form: text, sound, fixed images and animated images;
- it is produced on electronic media and controlled by software that allows for interactivity;
- it is shown to Investissement Québec’s satisfaction either that the total labour expenditure incurred for the title by the corporation that produces it is at least **\$1 million**, or that the total labour expenditure can be reasonably expected to reach that amount.

More specifically, where the main multimedia title is produced by a corporation that is associated with the corporation producing the related title, it cannot be considered to be a main multimedia title in relation to the related title unless it is shown to Investissement Québec’s satisfaction either that such corporations are associated throughout the period that commences with the beginning of the design stage of the related title and ends with the date of its initial marketing, or that they can be reasonably expected to be so throughout that period.

Moreover, only those eligible labour expenditures that are incurred and paid no later than 12 months after the date of the initial marketing of the related title that is tied to the main multimedia title and that, furthermore, are related exclusively to the production of the main multimedia title can be taken into account.

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<sup>3</sup> The rules that apply to excluded multimedia titles also apply to excluded related titles.

## RATE OF THE CREDIT AND CATEGORIES

The credit rate varies with the category to which the eligible multimedia titles produced by the corporation belong.

The rate for each category is presented in the following table:

Category of eligible titles	Rates applicable to an eligible labour expenditure <sup>4</sup>
At least 75% of the eligible multimedia titles produced by the corporation during the year were intended for commercial markets, were available in French and <b>were not vocational training titles</b> , or at least 75% of the corporation's gross revenue for the year was derived from such eligible multimedia titles.	37.5%
At least 75% of the eligible multimedia titles produced by the corporation during the year were intended for commercial markets, were not available in French and <b>were not vocational training titles</b> , or at least 75% of the corporation's gross revenue for the year was derived from such eligible multimedia titles.	30%
Less than 75% of the eligible multimedia titles produced by the corporation during the year were intended for commercial markets and were not vocational training titles, and less than 75% of the corporation's gross revenue for the year was derived from such eligible multimedia titles.	26.25%

For a title to be considered as intended for commercial markets, the following two criteria must be met:

- the title must be available to the general public, that is, it must not be restricted to a limited clientele; and
- genuine efforts to market it must be undertaken. For example, merely making a title available on a website would not constitute evidence of a genuine marketing effort.

A title's availability in French is evaluated using the following criteria:

- the French version of the title must be at least equivalent to the versions produced in another language; and
- the title designer must be able to demonstrate that the consumer is or will be able to obtain the French version of the title through the usual marketing channels from the first day it is marketed. This version must therefore be advertised or distributed.

<sup>4</sup> (1) A \$100,000 cap applies to an eligible labour expenditure incurred in the year and paid to an eligible employee of the corporation or of a non-arm's-length subcontractor. The cap does not apply to the consideration that the corporation paid to an arm's-length subcontractor. The maximum credit for such employees is \$37,500, \$30,000 or \$26,250, as applicable. However, the cap on assistance will not apply to 20% of such eligible employees.

Streamlining of the enhanced tax credit for French was announced in the Budget Speech of March 28, 2017.

More specifically, in order for a subcontractor with an establishment in Québec to be able to receive the tax credit (specialized component) and claim the enhanced credit for French in respect of a multimedia title that is eligible according to the current rules regarding, in particular, a part of a multimedia title that it produces, while carrying out part of its multimedia title production work for another eligible Québec corporation, the framework act will be amended to provide that, solely for the purposes of the parameters used to determine the tax credit rates, a part of another multimedia title will be deemed an eligible multimedia title, even though it is a component of another title produced by a corporation with an establishment in Québec, if it is shown that the other title is an eligible multimedia title.

The changes will affect applications for specialized corporation certificates submitted to Investissement Québec after March 28, 2017.

## **PRODUCTION WORK CERTIFICATE**

A production work certificate issued to a corporation during a taxation year lists the work produced during the year by the corporation or, where applicable, on its behalf, in respect of any eligible title that it produces, which is recognized as eligible production work. The certificate also indicates the names of the individuals who worked directly to produce this work during the year while being employed by the corporation or a non-arm's-length subcontractor.

In addition, it sets out the functions that each individual carried out in the course of this work, the percentage of the work time that the individual spent on this work and, where applicable, the name of the non-arm's-length subcontractor for which the individual worked.

Finally, the certificate provides the names of any persons or partnerships, other than a non-arm's-length subcontractor, with which the corporation has entered into a subcontract, identifies the eligible production work that was executed under the contract and indicates the proportion, expressed as a percentage, that the services related to this work represent in relation to all of the services that the person or partnership provided for the corporation.

In addition, when an individual works for the corporation or for a non-arm's-length subcontractor and dedicates at least 90% of his or her work time to executing eligible production work for an eligible title, that individual is deemed to dedicate all of his or her time to executing eligible production work.

## **Eligible Production Work – Eligible Multimedia Titles**

“Eligible production work” related to a title refers to the work carried out to complete the production stages of the title, commencing with the beginning of the design stage and continuing indefinitely thereafter.<sup>5</sup>

Eligible production work on a title includes the following activities:

- writing of the scenario;
- development of its interactive structure;
- acquisition and production of its constituent elements;
- its computer and online development;
- its systems architecture;
- activities related to the community of users;
- analysis of quantitative operations-related data with a view to optimizing the title;
- technological activities related to its updating.

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<sup>5</sup> Ministère des Finances et de l'Économie du Québec, Information Bulletin 2013-9, September 30, 2013.

Further information on certain activities that constitute eligible production work can be found below.

### *SYSTEM ARCHITECTURE*

Activities related to system architecture include the design, installation, development and maintenance of infrastructure that hosts multimedia titles (including the network and servers required for its operation), the development of tools aimed at optimizing the operation, management and maintenance of such infrastructure, and the management of system security and data access.

### *ACTIVITIES RELATED TO THE COMMUNITY OF USERS*

Activities related to the community of users of a given title include the following:

1. activities related to the development of the community of users, which include activities related to the establishment and maintenance of a link between the community and the online multimedia title development team to ensure the attraction and retention of users;
2. activities related to the position of game master, which include activities related to the leadership and guidance of users in the community and seek the enhancement of users' experience;
3. technical service to the community, which includes activities to coordinate and optimize relationships with users.

### *TECHNOLOGICAL ACTIVITIES RELATED TO ITS UPDATING*

Technological activities related to the updating of a title include activities related to the installation of new versions, the updating of its contents, the optimization of computer infrastructure in operation and the attendant regular or urgent maintenance tasks.

## **Ineligible Production Work**

Activities related to a title's mastering, the multiplication of media, the acquisition of copyright, and its promotion, dissemination and distribution, except for work that is related to system architecture or constitutes technological activities related to its updating, are not recognized as eligible production work in respect of a title.

## **Eligible Production Work – Eligible Related Titles**

The above-mentioned definition of "eligible production work" also applies to eligible related titles. Given the nature of some eligible related titles that may be produced, eligible production work more specifically includes work carried out in the context of eligible activities related to the production of special effects and computer animation, that is, activities that directly contribute to the creation of special effects and computer animation and to the filming of scenes in front of a chroma-key screen, such as motion capture, correcting animation curves, rendering, image retouching, graphics, filming, the use of computer-controlled motorized animation stands, the use of computer-controlled motorized cameras and chroma-key shooting.

"Special effects and computer animation" refers to special effects and animation sequences, within the meaning generally accepted by the industry, created by means of digital technology, but excludes strictly sound effects, subtitles and animation sequences created essentially by means of editing techniques. Finally, "filming scenes in front of a chroma-key screen" refers to any in-studio filming in front of a solid coloured screen, generally blue or green, so that objects, images or special effects can be incorporated into the final image using compositing techniques.



## **DATE OF THE INITIAL MARKETING OF A TITLE**

The “date of the initial marketing of a title” is one of the following dates.

1. In the case of a multimedia title distributed on the Internet, it is the date on which the title is put online.
2. In the case of a multimedia title that is intended to be used with a game console or a computer, it is the date on which the master copy is ready to be reproduced for marketing purposes.
3. In all other cases, it is the title’s distribution date.

The date of the initial marketing of a title that was produced by a corporation under a subcontract is the date on which the title is delivered to the corporation’s client.

## **ROLE OF INVESTISSEMENT QUÉBEC AND REVENU QUÉBEC REGARDING RELATED TITLES**

Investissement Québec is responsible for qualifying multimedia titles (including related titles) produced by a corporation. To establish whether a related title is eligible, the corporation must provide Investissement Québec with all the documents showing that the total estimated labour expenditure for the main multimedia title to which the related title is tied is at least \$1 million. However, Revenu Québec is responsible for determining whether the labour expenditure is eligible.

If, in Revenu Québec’s opinion, the total amount of the labour expenditures for the main multimedia title is not at least \$1 million, Investissement Québec will revoke the certificate previously issued to the corporation for the related title or for the corporation itself, if, in the latter case, the corporation no longer meets the eligibility criteria. If the corporation nonetheless remains eligible, Investissement Québec will make the required amendments to the certificate.

To determine whether a corporation’s related title is tied to a main multimedia title, the corporation must provide all the documents required by Investissement Québec showing that the product is linked to the intellectual property right or licence for the main multimedia title and that such right or licence is held by the corporation or an associated corporation.

In addition, Investissement Québec may consult Revenu Québec to determine, for the purposes of issuing the certificate, whether a corporation is associated with an eligible corporation. If, in Revenu Québec’s opinion, a corporation is not associated with an eligible corporation and, consequently, the title is not an eligible title, Investissement Québec will revoke the certificate previously issued to the corporation for that title or for the corporation, if, in the latter case, the corporation no longer meets the eligibility criteria. If the corporation nonetheless remains eligible, Investissement Québec will make the required amendments to the certificate.

## **DEFINITION OF TERMS**

### **Interactivity<sup>6</sup>**

The term “interactivity” is used to describe communication between a human being and a computer. This being said, interactivity can range from “technical” interaction on a primary level (menus, cursors, etc.) to verbal exchanges with a computer.

An interactive multimedia title must enable the user to become a participant, not simply a reader or spectator. The whole multimedia title must be interactive, not just part of it.

Three characteristics are used to determine whether a multimedia title is interactive: feedback, control and adaptation.

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<sup>6</sup> This concept does not apply to related titles.

### 1. Feedback

Feedback is a response given to the user of a program.

### 2. Control

The user has a degree of control over a multimedia title when he or she is able to influence the way it proceeds. For example, the user can make choices, implement a strategy, move objects, use logical reasoning, reconstitute a whole, or create or modify an image.

### 3. Adaptation

A title adapts to the user's needs when it offers the user a choice of actions that varies according to a number of specified situations. A program can therefore include several scenarios that take into account the user's skill level. It can also include decision trees or databases enabling the user to search for and process information.

Note: These characteristics are not absolutely essential conditions for interactivity. However, they do serve as an important guide in the evaluation of this criterion.

Examples of multimedia productions that generally include many of these characteristics are as follows:

- video games;
- educational software;
- edutainment titles;
- simulators (e.g., for driving a car).

Thus, a multimedia title that allows users solely to choose content using buttons, panel displays, menus or cursors and does not allow them to interact with the content (e.g., a slide show, video presentation or PowerPoint presentation) is not an eligible multimedia title. Similarly, hyperlinks that give users access to websites, whether interactive or not, are insufficient for a title to be considered interactive.

Furthermore, a clarification of the concept of interactivity in respect of the Credit for the Production of Multimedia Titles was announced in the Budget Speech of March 10, 2020.

In this announcement, the Ministère des Finances du Québec specifies that a title may be considered to be controlled by software allowing interactivity if the conditions respecting the user's participation in the action of the title are met for **all or substantially all** of the action.

## **ELIGIBLE LABOUR EXPENDITURES<sup>7</sup>**

Assistance for eligible multimedia titles is determined according to a producer's "eligible labour expenditures" in a given taxation year. These expenditures include the total of the following, less the amount of any government or non-government assistance attributable to the labour expenditures:

- salaries and wages for the production of eligible multimedia titles paid by the corporation during the year to its eligible employees at an establishment in Québec for eligible production work carried out during the year in respect of those titles;

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<sup>7</sup> The term "qualified labour expenditure" is defined in the first subparagraph of section 1029.8.36.0.3.18 of the *Taxation Act* (CQLR, chapter I-3). Revenu Québec is responsible for applying and interpreting this term.

- the portion of the consideration that the corporation paid, under a contract, for eligible production work carried out on its behalf during the year in respect of eligible multimedia titles, to a person or partnership that executed all or part of this eligible production work and that was not at arm's length at the time the contract was entered into, that can be reasonably attributed to salary or wages chargeable to those titles that the person or partnership incurred and paid to its eligible employees at an establishment in Québec, or that could have been so attributed if that person or partnership had such employees;<sup>8</sup>
- 50% of the portion of the consideration that the corporation paid, under a contract, for eligible production work related to eligible multimedia titles, to a person or partnership that was at arm's length at the time the contract was entered into, that can be reasonably attributed to eligible production work executed on its behalf during the year by the employees at an establishment in Québec belonging to that person or partnership, or that could have been so attributed if that person or partnership had such employees.<sup>9</sup>

It should be noted that the portion of the consideration paid to a person or partnership under a contract that may be part of the "qualified labour expenditures" includes only first-tier subcontractors. For example, if Qualified Corporation A entrusts the execution of the eligible production work to Corporation B, and Corporation B entrusts a portion of this production work to Corporation C (second-tier subcontractor), only the portion (or half the portion) of the consideration paid to Corporation B can be part of the "qualified labour expenditures." The portion of the consideration paid to Corporation B but attributable to the production work carried out by Corporation C is not eligible for the credit in this situation.

## **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 at [www.investquebec.com](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 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 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.

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<sup>8</sup> The phrase "or that could have been so attributed if that person or partnership had such employees" covers the situation of a self-employed person who has no employees to execute the contract. In that case, the amount of salaries or wages that would have been paid if the person who executes the contract had had employees to execute the contract must be determined.

<sup>9</sup> See above.

## 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.PM) prescribed by Revenu Québec regarding the Tax Credit for Corporations Specialized in the Production of Multimedia Titles;
- the specialized corporation and production work certificates issued by Investissement Québec.

To apply for the specialized corporation and production work certificates, the corporation must complete the prescribed form available on the Investissement Québec website. It can also obtain the form from an Investissement Québec advisor.

The issuance of a certificate does not guarantee that the tax credit will be granted. Under the *Act respecting the sectoral parameters of certain fiscal measures*, the corporation must file its application for certification with Investissement Québec by the last day of the 15th month following the end of the corporation's fiscal year.

If an application for specialized corporation and production work certificates is filed after that date, but before the expiration of the 18th month following the end of the corporation's fiscal year, Investissement Québec may, at its discretion, grant the application for an eligibility certificate if it deems the reasons for the delay to be reasonable and to justify late filing.

Consequently, we strongly recommend that you submit the application for specialized corporation and production work certificates **before the end of the 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 specialized corporation and production work certificates must be duly signed and completed and include all appendices. It must contain all the prescribed information and be accompanied by all the documents requested in the appendices.

### Filing of Documents with Revenu Québec

The corporation must submit its application for a tax credit and the relevant eligibility certificates to Revenu Québec by the later of the following dates:

- The last day of the 18th month following the end of the corporation's fiscal year in question;
- The last day of the three-month period following the date on which the eligibility certificates were issued by Investissement Québec.

### SITE VISIT

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

## **JOINT ADMINISTRATION**

Tax measures are managed under the joint responsibility of Investissement Québec and Revenu Québec.

Issuing certificates and ensuring compliance with eligibility requirements is the sole responsibility of Investissement Québec. In addition, issuance of a certificate by Investissement Québec does not guarantee that the corporation will qualify for the tax measure concerned. The certificate merely confirms that the non-fiscal requirements set out in Schedule A of the *Act respecting the sectoral parameters of certain fiscal measures*, which are under the responsibility of Investissement Québec, have been met. The other eligibility requirements prescribed by the *Taxation Act*, which are the responsibility of Revenu Québec, must also be met for the corporation to receive the benefits associated with the tax measure in question.

## **FINANCING OF THE REFUNDABLE 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 expenditures that may give rise to more than one tax credit for one or more taxpayers. These rules also apply to the Tax Credit for Corporations Specialized in the Production of Multimedia Titles.

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 or applications for review related to the tax measures it administers. For more information, contact an Investissement Québec advisor or consult the [rate schedule](#) on its website.

## **PRECEDENCE OF LAWS**

*This detailed fact sheet provides a summary of the main rules set out in Chapter VI 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. Accordingly, 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 laws.*

March 2022