

TAXATION ACT

(Excerpt concerning the Tax credit for child assistance)

(S.R.Q., c. I-3)

Updated to July 1st 2006
Came into force on June 17th, 2005

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TAX CREDIT FOR CHILD ASSISTANCE (Excerpt)

DIVISION II.11.2

In the present consolidation, the articles in dark gray relates to the articles which were or which will be modified and the boxes, modified articles or additions with their date of coming into force. The modifications themselves are in heavy type.

§1. — Interpretation and general

1029.8.61.8. In this division :

« base year » in relation to a particular month means:

a) where the particular month is any of the first six months of a calendar year, the taxation year that ended on 31 December of the second preceding calendar year, or ;

b) where the particular month is any of the last six months of a calendar year, the taxation year that ended on 31 December of the preceding calendar year ;

« Board » means the Régie des rentes du Québec;

« cohabiting spouse » of an individual at any time means the person who at that time is the individual's spouse and who is not at that time living separate and apart from the individual ;

« eligible dependent child », at any time means a person who at that time is under 18 years of age and:

a) is not a person in respect of whom an individual has deducted an amount under section 776.41.5 in computing the individual's tax otherwise payable under this Part for the base year in relation to the particular month that includes that time; and ;

b) is not lodged or sheltered under the law, unless the conditions relating to the contribution payable under the Regulation respecting the application of the Act respecting health services and social services (R.R.Q., 1981, chapter S-5, r.1) are complied with ;

« eligible individual », in respect of an eligible dependent child, at any time means an individual who at that time :

a) resides with the eligible dependent child;

b) is the father or the mother of the eligible dependent child who primarily fulfils, or is deemed to primarily fulfil, the responsibility for the care and upbringing of the eligible dependent child;

b) is the father or the mother of the eligible dependent child;

(S.Q. 2006, c. 13, a. 174, applies from taxation year 2007)

c) is resident in Québec or, where the individual is the cohabiting spouse of a person who is deemed to be resident in Québec throughout the taxation year that includes that time, other than a person who is exempt from tax for the year under any

subparagraphs *a* to *d* of the first paragraph of the section 96 of the Act respecting the Ministère du Revenu (chapter M-31), was resident in Québec in any preceding taxation year;

d) is not exempt from tax for the taxation year that includes that time under section 982 or 983 or any of subparagraphs *a* to *d* of the first paragraph of section 96 of the Act respecting the Ministère du Revenu; and;

e) is, or whose cohabiting spouse is:

i. a Canadian citizen ;

ii. a permanent resident within the meaning of subsection 1 of section 2 of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27) ;

iii. a temporary resident or a holder of a temporary resident permit within the meaning of the Immigration and Refugee Protection Act, who was resident in Canada during the 18 month period preceding that time, or ;

iv. is a protected person within the meaning of the Immigration and Refugee Protection Act ;

« family income » of an individual for a base year in relation to a particular month means the aggregate of the income of the individual for the base year and the income, for the base year, of the individual's cohabiting spouse at the end of the base year.

« family income » of an individual for a base year in relation to a particular month means the aggregate of the income of the individual for the base year and the income, for the base year, of the individual's cohabiting spouse **at the beginning of the particular month.**

(S.Q. 2006, c. 13, a. 174, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.9. For the purposes of the definition of « cohabiting spouse » in section 1029.8.61.8, a person shall not be considered to be living separate and apart from an individual at any time unless the person was living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.

2005, c.1, a. 257.

1029.8.61.10. Where, in a particular calendar year, the responsibility for the care and upbringing of an eligible dependent child is shared equally between more than one person who do not live under the same roof, those persons must agree in determining which one of them is deemed to primarily fulfil that responsibility at the beginning of each month in that calendar year. .

Where those persons cannot agree, the Board shall determine which are the months included in calendar year at the beginning of which each of those persons is deemed to primarily fulfil the responsibility for the care and upbringing of the eligible dependent child.

1029.8.61.10. Repealed.

(S.Q. 2006, c. 13, a. 175, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.11. Where an eligible dependent child resides with his or her mother, the mother is deemed to be the person who primarily fulfils the responsibility for the care and upbringing of the eligible dependent child, except where:

a) the mother declares to Board that she lives with the father of the child and that the father primarily fulfils the responsibility for the care and upbringing of each eligible dependent child living with them;

b) the mother is an eligible dependent child of an eligible individual and each of them files an application in respect of the same eligible dependent child;

c) the eligible dependent child has more than one mother with whom the eligible dependent child resides and each mother files an application in respect of that child; or

d) more than one person files an application in respect of the same eligible dependent child who resides with each of them in different places.

If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child with whom the person resides, other than a child who is the subject of shared custody at the beginning of the particular month, the person is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month, unless the person is the child's biological mother and, at the beginning of the particular month, has not reached 18 years of age and does not have a cohabiting spouse.

For the purposes of the first paragraph, an eligible dependent child who is the subject of shared custody at the beginning of a particular month means

(a) a child whose custody is shared between persons with whom the child has a bond of filiation, and in respect of whom each of those persons assumes at least 40 % of custody time during the particular month; or

(b) a child whose custody is shared between a person with whom the child does not have a bond of filiation and a person with whom the child has such a bond, if the latter person assumes less than 50 % of custody time during the particular month.

If a person is deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than a person referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.

(S.Q. 2006, c. 13, a. 176, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.11.1. If, at the beginning of a particular month, persons have a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of whom each of those persons assumes at least 40% of custody time during the particular month, each of those persons is deemed to fulfill the responsibility for the care and upbringing of that child at the beginning of the particular month.

If persons are deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than persons referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.

(S.Q. 2006, c. 13, a. 177, applies from taxation year 2007)

2005, c.1, a. 257; 2006, c. 13, a.177.

1029.8.61.11.2. If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of whom the person does not assume at least 40% of custody time during the particular month, that person and, where applicable, the person's cohabiting spouse at the beginning of the particular month, are deemed not to be residing with that child at the beginning of the particular month.

(S.Q. 2006, c. 13, a. 177, applies from taxation year 2007)

2005, c.1, a. 257; 2006, c.13, a. 177.

1029.8.61.12. For the purpose of determining whether a person **primarily** fulfils the responsibility for the care and upbringing of eligible dependent child, the following criteria must be taken into account:

1029.8.61.12. For the purpose of determining whether a person fulfils the responsibility for the care and upbringing of eligible dependent child, the following criteria must be taken into account:

(S.Q. 2006, c. 13, a. 178, applies from taxation year 2007)

- a) supervising the child's daily activities and providing for the child's daily needs;
- b) maintaining a safe environment in which the child resides;
- c) obtaining medical care for the child at regular intervals and as necessary, and transporting the child to the places where this care is given ;
- d) organizing, for the child, educational, recreational or sports activities, or other similar activities, and provide for the child's participation in such activities and transportation for this purpose;
- e) providing for the child's needs when the child is sick or requires another person's assistance;
- f) seeing to the child's personal hygiene on a regular basis;

- g) in general, being present for the child and guiding the child; and
- h) the existence of a court order that is issued in respect of the child and valid where the child resides.

1029.8.61.12.1. If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, persons who are not married to each other or who, though married, do not live together, fulfill the responsibility for the care and upbringing of an eligible dependent child, that responsibility is deemed to be fulfilled by the person who primarily fulfills, at the beginning of the particular month, that responsibility and, where applicable, by the person who has a bond of filiation with that child and assumes at least 40% of custody time in respect of the child during the particular month.

(S.Q. 2006, c. 13, a. 179, applies from taxation year 2007)

2005, c.1, a. 257; 2006, c. 13, a. 179.

1029.8.61.12.2. If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, responsibility for the care and upbringing of an eligible dependent child is shared equally between persons who are not married to each other or who, though married, do not live together, those persons must agree in determining which one of them is deemed to fulfill that responsibility at the beginning of the particular month, unless one of those persons has a bond of filiation with the child and assumes at least 40% of custody time in respect of the child, in which case each of those persons is deemed to fulfill that responsibility.

If the persons referred to in the first paragraph cannot agree, the Board shall determine which of them is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month.

(S.Q. 2006, c. 13, a. 179, applies from taxation year 2007)

2005, c.1, a. 257; 2006, c. 13, a. 179.

1029.8.61.12.3. For the purposes of sections 1029.8.61.12.1 and 1029.8.61.12.2, two married persons are considered not to be living together at any time if, at that time, they have been living separate and apart, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.

(S.Q. 2006, c. 13, a. 179, applies from taxation year 2007)

2005, c.1, a. 257; 2006, c. 13, a. 179.

1029.8.61.13. For the purposes of the definition of « family income » in section 1029.8.61.8, where an individual was not resident in Canada throughout a particular base year, the individual's income for the year is deemed to be equal to the income that would be determined in respect of the individual for the year under this Part if the individual had been resident in Québec and in Canada throughout the year or, where the individual died in the year, throughout the period of the year preceding the time of death.

2005, c.1, a. 257.

1029.8.61.14. An eligible individual, in respect of an eligible dependent child, who begins, before the end of a particular month, to live separate and apart from the eligible individual's cohabiting spouse, because of the breakdown of their marriage for a period of at least 90 days that includes a day of the particular month, may elect, before the end of the eleventh month following the particular month, to have the eligible individual's family income for the base year in relation to any month subsequent to the particular month deemed to be equal to eligible individual's income for the base year.

1029.8.61.14. Repealed.

(S.Q. 2006, c. 13, a. 180, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.15. Where the cohabiting spouse of an eligible individual, in respect of an eligible dependent child, dies in a particular month, the eligible individual may elect, before the end of the eleventh month following the particular month, to have the eligible individual's family income for the base year in relation to any month subsequent to the particular month deemed to be equal to the eligible individual's income for the base year.

1029.8.61.15. Repealed.

(S.Q. 2006, c. 13, a. 180, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.16. The person who, at a particular time in a particular month, becomes the cohabiting spouse of an eligible individual, in respect of an eligible dependent child, may, together with the eligible individual, elect, before the end of the eleventh month following the particular month, to be, in respect of any month subsequent to the particular month, deemed to have been the cohabiting spouse of the eligible individual throughout the period that began immediately before the end of the base year in relation to the particular month and that ended at the particular time.

1029.8.61.16. Repealed.

(S.Q. 2006, c. 13, a. 180, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.17. Where an individual becomes a bankrupt in a particular calendar year section 779 does not apply for the purpose of determining the individual's income for the year.

2005, c.1, a. 257.

§2. — *Credit*

1029.8.61.18. Where an individual and the individual's cohabiting spouse at the end of the base year in relation to a particular month included in a taxation year file the document referred to in section 1029.8.61.23 for the base year, an amount equal to the amount determined by the following formula is deemed, for the particular month, to be an overpayment of the tax payable by the individual under this Part, in this division referred to as the « child assistance payment »:

1029.8.61.18. Where an individual and, where applicable the individual's cohabiting spouse at the beginning of a particular month included in a taxation year file the document referred to in section 1029.8.61.23 for the base year in relation to the particular month, an amount equal to the amount determined by the following formula is deemed, for the particular month, to be an overpayment of the tax payable by the individual under this Part, in this division referred to as the « child assistance payment »:
(S.Q. 2006, c. 13, a. 181, applies from taxation year 2007)

$1/12 A + B.$

In the formula provided for in the first paragraph :

a) A is the greater of the amounts determined by the following formulas:

i. $(C + D) - 4 \% (E - F)$ and;

ii. $G + H$;and

b) B is an amount, in this division referred to as the « supplement for handicapped children », equal to the product obtained by multiplying \$161.50 by the number of eligible dependent children referred to in section 1029.8.61.19 in respect of whom the individual is, at the beginning of the particular month, an eligible individual.

In the formulas provided for in subparagraph a of the second paragraph :

a) C is :

i. if the individual is, at the beginning of the particular month, an eligible individual in respect of a single eligible dependent child, \$2 000, or

ii. if the individual has a cohabiting spouse at the beginning of the particular month, the amount determined under the first paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such individual, and

(S.Q. 2006, c. 13, a. 181, applies from taxation year 2007)

ii. if the individual is, at the beginning of the particular month, an eligible individual in respect of more than one eligible dependent child, the aggregate of :

ii. if the individual has no cohabiting spouse at the beginning of the particular month, the amount determined under the second paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such an individual;

(S.Q. 2006, c. 13, a. 181, applies from taxation year 2007)

1° 2 000 \$ for the first eligible dependent child;

2° 1 000 \$ for each of the second and third eligible dependent children, and

3° 1 500 \$ for the fourth eligible dependent child and for each subsequent eligible dependent child ;

b) D is an amount of \$700, where the individual has no cohabiting spouse at the beginning of the particular month;

c) E is the individual's family income for the base year in relation to the particular month;

d) F is :

i. if the individual has a cohabiting spouse at the beginning of the particular month, \$42 800, and

ii. in any other case, \$31 600;

e) G is:

i. if the individual is, at the beginning of the particular month, an eligible individual in respect of a single eligible dependent child, \$553, or

ii. if the individual is, at the beginning of the particular month, an eligible individual in respect of more than one eligible dependent child, the aggregate of :

1° \$553 for the first eligible dependent child, and

2° \$510 for the second eligible dependent child and for each subsequent eligible dependent child; and

f) H is an amount of \$276, where the individual has no cohabiting spouse at the beginning of the particular month.

Where, at the beginning of a particular month, more than one eligible dependent child would, but for this paragraph, give entitlement to an amount in respect of a child assistance payment, as a consequence of the application of subparagraphs a en e of the third paragraph, only one of those eligible dependent children is deemed to give entitlement to such an amount.

The individual who, at the beginning of a particular month, is an eligible individual in respect of an eligible dependant child, or, where applicable, the individual's cohabiting spouse at the beginning of the particular month, shall, for this section to apply to the individual, fulfill the responsibility for the care and upbringing of the eligible dependent child.

(S.Q. 2006, c. 13, a. 181, applies from taxation year 2007)

2005, c.1, a. 257; 2005, c. 38, a. 281 (c.i.f. 13 December 2005; applies from the taxation year 2006.).

1029.8.61.18.1. If, for a particular month included in a taxation year, two individuals, who are mutually cohabiting spouses at the beginning of the particular month, would, but for this section, be entitled to receive an amount in respect of a child assistance payment

under section 1029.8.61.18, only the individual described in the second paragraph is entitled to receive that amount for the particular month.

The individual to which the first paragraph refers is

(a) in the case of an initial application filed by a family, other than a blended family,

i. the biological mother of the eligible dependent child if the application is deemed, in accordance with section 1029.8.61.24, to have been filed, and

ii. the first of the individuals referred to in the first paragraph who files an application, other than the application referred to in subparagraph i, in respect of an eligible dependent child;

(b) in the case of an initial application filed by a blended family,

i. the individual who has a bond of filiation with the largest number of eligible dependent children named in the application, and

ii. if each of the cohabiting spouses has a bond of filiation with an equal number of eligible dependent children named in the application, the individual who has a bond of filiation with the youngest child or, if that child has a bond of filiation with each of the cohabiting spouses, the mother; and

(c) in the case of a second application and of any subsequent application filed by a family, the individual who receives, at the time of the application, an amount in respect of a child assistance payment.

For the purposes of subparagraphs *b* and *c* of the second paragraph, a blended family means two single-parent families that combine to form a new family.

(S.Q. 2006, c. 13, a. 182, applies from taxation year 2007)

2006, c. 13, a. 182

1029.8.61.18.2. If, at the beginning of a particular month, individuals, who are not mutually cohabiting spouses, are eligible individuals in respect of the same eligible dependent child, in this section referred to as the “child concerned”, and each of them is deemed to fulfill, at the beginning of the particular month, the responsibility for the care and upbringing of the child concerned under any of sections 1029.8.61.11.1, 1029.8.61.12.1 and 1029.8.61.12.2, the amount determined in respect of each individual for the particular month under section 1029.8.61.18 is to be replaced by an amount equal to the aggregate of

(a) the amount that would be determined in respect of the individual, for the particular month, under section 1029.8.61.18 if the individual was not, at the beginning of the particular month, an eligible individual in respect of each child concerned; and

(b) the amount that is equal to 50% of the amount by which the amount determined in respect of the individual for the particular month under section 1029.8.61.18 exceeds the amount determined under paragraph *a* in respect of the individual.

(S.Q. 2006, c. 13, a. 182, applies from taxation year 2007)

2006, c. 13, a. 182

1029.8.61.18.3. An eligible individual, in respect of an eligible dependent child, may, at any time, waive entitlement to receive an amount in respect of a child assistance payment in favour of another eligible individual, in respect of the eligible dependent child, who is the eligible individual's cohabiting spouse, provided the Board is so notified.

The waiver takes effect from the date, subsequent to the date of the notice to the Board, on which an amount is paid in respect of a child assistance payment.

(S.Q. 2006, c. 13, a. 182, applies from taxation year 2007)

2006, c. 13, a. 182

1029.8.61.18.4. The Board may, in exceptional circumstances and if it is convinced that it is in the family's interest, pay an amount in respect of a child assistance payment that an eligible individual in respect of an eligible dependent child is entitled to receive to the eligible individual's cohabiting spouse if that spouse is also an eligible individual in respect of the eligible dependent child.

(S.Q. 2006, c. 13, a. 182, applies from taxation year 2007)

2006, c. 13, a. 182

1029.8.61.19. An eligible dependent child to whom subparagraph *b* of the second paragraph of the section 1029.8.61.18 refers is a child who, according to the prescribed rules, has an impairment or a developmental disability that substantially limits the child in the activities of daily living during a foreseeable period of at least one year.

For the purpose of considering an amount in respect of the supplement for handicapped children under subparagraph *b* of the second paragraph of section 1029.8.61.18, an application must be filed with the Board and be accompanied by an expert's report assessing the child's condition.

There is an exemption from filing a new application and from filing a new expert's report for the purpose of considering an amount in respect of the supplement for handicapped children under subparagraph *b* of the second paragraph of section 1029.8.61.18, where an individual becomes an eligible individual, in respect of an eligible child who already gives rise to entitlement to an amount in respect of the supplement for handicapped children and in respect of whom the individual has filed or is deemed to have filed an application under the first paragraph of section 1029.8.61.24.

Where divergent opinions exist concerning the assessment of the child's conditions, the Board may require that the child be examined by the physician it designates or by any other expert. If valid grounds are presented to oppose the choice of the physician or expert, the Board shall designate another physician or expert.

The Board may, at any time, require that the child's condition be reassessed.

Despite the first paragraph, the child is not considered to be an eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers if

(a) without a valid reason, the treatments or measures likely to improve the child's condition are not applied or continued; or

(b) there is refusal or omission to comply with a request for informations or an examination to assess the child's condition.

2005, c.1, a. 257; 2006, c. 13, a. 183 (*has effect from 28 December 2005*).

1029.8.61.20. Each of the amounts referred to in the third paragraph shall, where it is to be used for a taxation year subsequent to the taxation year 2004, be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that amount so used by the factor determined by the formula :

$$(A / B) - 1.$$

In the formula provided for in the first paragraph :

a) A is the overall average Québec consumer price index without alcoholic beverages and tobacco products for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

b) B is the overall average Québec consumer price index without alcoholic beverages and tobacco products for the 12-month period that ended on 30 September on the taxation year next before the year preceding that for which the amount is to be adjusted.

The amounts to which the first and fourth paragraphs refer are :

a) the amount of \$161.50 mentioned in subparagraph <i>b</i> of the second paragraph of the section 1029.8.61.18 ;
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b) the amount of \$2 000, \$1 000 and \$1 500, wherever they are mentioned in subparagraph *a* of the third paragraph of the section 1029.8.61.18 ;

c) the amount of \$700 mentioned in subparagraph *b* of the third paragraph of section 1029.8.61.18 ;

d) the amount of \$553 and \$510, wherever they are mentioned in subparagraph *e* of the third paragraph of section 1029.8.61.18; and

e) the amount of \$276 mentioned in subparagraph *f* of the third paragraph of section 1029.8.61.18.

For the purposes of the first paragraph in respect of an amount that is to be used for taxation year 2005, each of the amounts referred to in the third paragraph is deemed to be the amount used for the taxation year 2004.

2005, c.1, a. 257; 2005, c.38, a. 282 (*c.i.f. 13 December 2005; applies from the taxation year 2007* In

addition, when section 1029.8.61.20 of the Act applies for the taxation year 2006, it reads without reference to subparagraph a of the third paragraph.

1029.8.61.21. Where the amount that results from the adjustment provided for in section 1029.8.61.20 is not a multiple of \$1, it shall be rounded to the nearest multiple of \$1 or, if it is equidistant from two such multiples, to the higher thereof.

2005, c.1, a. 257.

1029.8.61.22. Where the amount of \$42 800 and \$31 600 referred to in subparagraph *d* of the third paragraph of section 1029.8.61.18 are to be used for the purpose of computing an amount in respect of a child assistance payment for a particular month included in a taxation year subsequent to the taxation year 2005, each of those amounts shall be replaced by the amount determined by the formula :

$$A (B - C) + B.$$

In the formula provided for in the first paragraph :

a) A is 2,5 where the formula is applied to determine the amount that is to replace the amount provided for in subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18, and 3 where it is applied to determine the amount that is to replace the amount provided for in subparagraph *ii* of that subparagraph *d*;

b) B is:

i. the amount determined for the year in replacement of the amount provided for in subparagraph *ii* of subparagraph *c* of the second paragraph of section 1029.8.116.5, where the formula is applied to determine the amount that is to replace the amount provided for in subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18, or;

ii. the amount determined for the year in replacement of the amount provided for in subparagraph *i* of subparagraph *c* of the second paragraph of section 1029.8.116.5, where the formula is applied to determine the amount that is to replace the amount provided for in subparagraph *ii* of subparagraph *d* of the third paragraph of section 1029.8.61.18; and

c) C is \$3 600 where the formula is applied to determine the amount that is to replace the amount provided for in subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18, and \$2 400 where it is applied to determine the amount that is to replace the amount provided for in subparagraph *ii* of that subparagraph *d*.

1029.8.61.22. The amount to which subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, in section 1029.8.61.22.1 referred to as the “child assistance payment reduction threshold”, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who has an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph *ii* of subparagraph *b* of the second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible

individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

The amount to which subparagraph ii of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, in section 1029.8.61.22.1 referred to as the "child assistance payment reduction threshold", applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who does not have an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph i of subparagraph *b* of the second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

In this section, "eligible individual", "eligible spouse", "total income" and "work income" have the meaning assigned by section 1029.8.116.1.

(S.Q. 2006, c. 13, a. 184 applies from the taxation year 2006)

However, when the first and second paragraphs of section 1029.8.61.22 of the Act apply to the taxation year 2006, they read as follows:

1029.8.61.22. The amount to which subparagraph i of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who has an eligible spouse for the year, and whose work income for the year is at least equal to \$14,884, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

The amount to which subparagraph ii of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who does not have an eligible spouse for the year, and whose work income for the year is at least equal to \$9,720, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

2005, c.1, a. 257.

1029.8.61.22.1. The Minister of Finance publishes annually in the *Gazette officielle du Québec* a notice setting out the amounts of the child assistance payment reduction thresholds that are determined for a taxation year in accordance with the first and second paragraphs of section 1029.8.61.22.

The notice described in the first paragraph becomes effective from 1 January of the year for which the amounts of the child assistance payment reduction thresholds are determined and may be subject to a review having retroactive effect to that date.

(S.Q. 2006, c. 13, a. 185, applies from taxation year 2007)

2006, c.13, a. 185.

1029.8.61.23. The document to which the first paragraph of section 1029.8.61.18 refers is :

a) where the individual is resident in Québec on 31 December of the base year and in Canada throughout that year, the fiscal return the individual is required to file under section 1000 for that year ;

b) where the individual is not resident in Québec on 31 December of the base year but is resident in Canada throughout that year, the fiscal return the individual is required to file under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for that year or a statement of income for that year; and;

c) in any other case, a statement of income for the base year.

2005, c.1, a. 257.

1029.8.61.24. An individual may be considered to be an eligible individual, in respect of an eligible dependent child, at the beginning of a particular month only if the individual files an application, in respect of that eligible dependent child, with the Board no later than 11 months after the end of the particular month.

The Board may, at any time, extend the time for filing the application referred to in the first paragraph.

An individual is deemed to have filed an application, in respect of an eligible dependent child, with the Board within the time prescribed in the first paragraph in the individual filed, within the time prescribed, a notice with the Minister of National Revenue in accordance with subsection 1 of section 122.62 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

(S.Q. 2005, c. 38, a. 283, as modified by S.Q. 2006, c. 13, a. 244, has effect since 13 December 2005, deletion applies from 1st January 2007. However, the third paragraph of section 1029.8.61.24 of the Act, as it read before being struck out, continues to have effect in respect of notices filed with the Minister of National Revenue that relate to situations existing prior to 1 January 2007.

An individual is deemed to have filed an application, in respect of an eligible dependent child, with the Board within the time prescribed in the first paragraph if the registrar of civil status provides the Board with the information required to establish the individual's eligibility.

(S.Q. 2005, c. 38, a. 283, as modified by S.Q. 2006, c. 13, a. 244, applies from 1st January 2007.

There is an exemption from filing a new application, in respect of an eligible dependent child, where, no later than 12 months after the cessation of the entitlement to receive an amount in respect of a child assistance payment by reason of non-compliance with the conditions relating to the contribution referred to in paragraph b of the definition of « eligible dependent child » in section 1029.8.61.8 in respect of the child who is lodged or sheltered pursuant to the law, the Board is informed that the child is no longer lodged or sheltered or that those conditions are satisfied.

2005, c.1, a. 257.

1029.8.61.25. An individual who ceases to be an eligible individual, in respect of an eligible dependent child, in a particular month, otherwise than because the child has reached 18 years of age, shall notify the Board thereof before the end of the first month that follows the particular month.

1029.8.61.25. An individual who receives an amount in respect of a child assistance payment and who ceases to be an eligible individual, in respect of an eligible dependent child, in a particular month, otherwise than because the child reaches 18 years of age, shall notify the Board thereof before the end of the first month that follows the particular month.

(S.Q. 2006, c. 13, a. 186, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.26. An eligible individual, in respect of an eligible dependent child, at the beginning of a particular month shall notify the Board of any change in circumstances that may affect the individual's entitlement to receive an amount in respect of a child assistance payment.

The individual shall notify the Board before the end of the month that follows the month in which the change in circumstances occurs.

The Board may, where information is communicated by the Minister or the registrar of civil status *(S.Q. 2005, c. 38, a. 284, as modified by S.Q. 2006, c. 13, a. 245, applies from taxation year 2007.)* with respect to an individual who receives an amount in respect of a child assistance payment or by the Minister of National Revenue with respect to an individual who receives a child tax benefit under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), consider that a change in circumstances has been communicated to it.

2005, c.1, a. 257.

1029.8.61.26.1. If a change in circumstances has the effect of increasing an amount in respect of a child assistance payment that an individual is entitled to receive, the amount is revised from the beginning of the particular month that follows the month in which the change in circumstances occurs, provided that the Board is notified of the change at or before the end of the eleventh month following the particular month or, if the Board is notified of the change after that time, from the beginning of the eleventh month that precedes the month in which the Board is notified of the change.

(S.Q. 2006, c. 13, a. 187, applies from taxation year 2007)

2006, c.13, a. 187.

1029.8.61.27. The Board shall notify the eligible individual of the amount fixed for each 12-month period that begins on 1 July of each calendar year in respect of a child assistance payment.

1029.8.61.27. The Board shall notify the eligible individual who is entitled to receive an amount in respect of a child assistance payment of the amount set for each 12-month

period that begins on 1 July of each calendar year in respect of a child assistance payment.

(S.Q. 2006, c. 13, a. 188, applies from taxation year 2007)

The amount fixed under the first paragraph shall be revised during the year when a change in circumstances has the effect of changing the amount and a new notice shall be sent by the Board to the eligible individual.

2005, c.1, a. 257.

§3. —*Payment and recovery by the Board*

1029.8.61.28. The Board shall pay to an eligible individual, in respect of an eligible dependent child, in the first 15 days of January, April, July and October of a taxation year, the amounts determined in respect of a child assistance payment for each month in that year, according to the following terms and conditions :

1029.8.61.28. The Board shall pay to an eligible individual who is entitled to receive an amount in respect of a child assistance payment, in respect of an eligible dependent child, in the first 15 days of January, April, July and October of a taxation year, the amounts determined, in respect of the eligible individual, in respect of a child assistance payment for each month in that year, according to the following terms and conditions:

(S.Q. 2006, c. 13, a. 189, applies from taxation year 2007)

a) the payment made in January shall include the amounts determined in respect of a child assistance payment for January, February and March of that year;

b) the payment made in April shall include the amounts determined in respect of a child assistance payment for April, May and June of that year ;

c) the payment made in July shall include the amounts determined in respect of a child assistance payment for July, August and September of that year; and

d) the payment made in October shall include the amounts determined in respect of a child assistance payment for October, November and December for that year.

Despite the first paragraph, the Board may, on application, pay an amount as or on account of a child assistance payment in the first 15 days of each month in a taxation year and such a payment shall include only the amount determined in respect of a child assistance payment for the month of that payment.

2005, c.1, a. 257.

1029.8.61.29. At the request of the Minister of Employment and Social Solidarity, the Board shall deduct from the amount to be paid as or on account of a child assistance payment the amount repayable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001) and shall remit the amount so deducted to the Minister of Employment and Social Solidarity.

2005, c.1, a. 257; 2006, c. 25, a. 13.

1029.8.61.30. Sections 1051 and 1052 and sections 28 and 30.1 of the Act respecting the Ministère du Revenu (chapter M-31) do not apply in respect of an amount paid as or on account of a child assistance payment under section 1029.8.61.28.

Despite section 31 of the Act respecting the Ministère du Revenu, where a person is a debtor under a fiscal law or about to become so, or is in debt to the State under Act other than a fiscal law and referred to in a regulation made under the second paragraph of that section, the Minister may not allocate to the payment of the debt of that person any amount to be paid to the person by the Board under section 1029.8.61.28.

2005, c.1, a. 257.

1029.8.61.31. The claim of an individual in respect of the payment of an amount in respect of a child assistance payment is prescribed by three years.

However, the prescription does not run where the payment made by the Board results from a new computation of the income taken into account in determining an amount in respect of a child assistance payment.

2005, c.1, a. 257.

1029.8.61.32. An individual who receives an amount in respect of a child assistance payment without entitlement must notify the Board with dispatch.

2005, c.1, a. 257.

1029.8.61.33. An individual who receives an amount in respect of a child assistance payment without entitlement must repay such an amount to the Board, except if the amount was paid as a result of an administrative error that the individual could not reasonably have noticed.

2005, c.1, a. 257.

1029.8.61.34. An amount owing to the Board by an individual must be repaid to the Board in full from the date of the formal notice that the Board sends to the individual.

The formal notice shall state the grounds for the demand for repayment, the amount to be repaid, the right to apply for a review of the decision within the time limit provided for in section 1029.8.61.39 and, subject to the conditions set out in section 1029.8.61.41, the right to contest the review decision before the Administrative Tribunal of Québec.

The claim of the Board is prescribed by three years from the date on which the amount was paid without entitlement or, in the case of bad faith on the part of the individual who received the amount without entitlement, from the date on which the Board became aware of the fact that that amount had been paid without entitlement.

2005, c.1, a. 257; 2005, c. 17, a. 36 (*c. i. f. 1st July 2006*).

1029.8.61.35. Where, for a particular month, the Board has paid to an individual, as or on account of a child assistance payment an amount, to which the individual was not entitled and that individual is the cohabiting spouse of an eligible individual, in respect of the eligible dependent child in respect of whom the amount has been paid, the eligible individual and the eligible individual's cohabiting spouse are solidarily liable in respect of the payment to the Board of that amount, to the extent that it may reasonably be considered that that amount relates to the application of section 1029.8.61.18 and that the individual was the eligible individual's cohabiting spouse at the time the payment was made.

1029.8.61.35. If, for a particular month, the Board has paid to an individual, as or on account of a child assistance payment, an amount to which the individual was not entitled and that individual is the cohabiting spouse of an eligible individual, in respect of the eligible dependent child in respect of whom the amount has been paid, who was entitled to receive that amount, the eligible individual and the eligible individual's cohabiting spouse are solidarily liable in respect of the payment to the Board of that amount, to the extent that it may reasonably be considered that that amount relates to the application of section 1029.8.61.18 and that the individual was the eligible individual's cohabiting spouse at the time the payment was made.

(S.Q. 2006, c. 13, a. 190, applies from taxation year 2007)

2005, c.1, a. 257.

1029.8.61.36. The Board may allocate any amount to be paid to an individual as or on account of a child assistance payment for a particular month to the payment of any amount of which the individual is a debtor as a consequence of the application of the following provisions, and give the individual notice thereof :

- a) the provisions of this division ;
- b) the provisions of the Act respecting family benefits (chapter P-19.1), as they applied in respect of the debtor; and
- c) the provisions of the Act respecting family assistance allowances (chapter A-17), as they applied in respect of the debtor.

Where applicable, the allocation shall be made taking into account the fact that an individual receives a benefit under a last resort financial assistance program provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001).

2005, c.1, a. 257.

1029.8.61.37. Section 1037 and sections 12.1, 13, 15, 15.2, 28, 31.1.1 and 32 of the Act respecting the Ministère du Revenu (chapter M-31) do not apply in respect of an amount owed by an individual under section 1029.8.61.34.

In addition, the Minister may not institute proceedings before a court or register a legal hypothec in respect of the amount.

2005, c.1, a. 257.

1029.8.61.38. The Board shall notify the Minister where an amount owed by an individual under section 1029.8.61.34 has, after the expiration of the period in which that amount could be or was the subject of a review or of a contestation before the Administrative Tribunal of Québec, become uncollectible by the Board.

2005, c.1, a. 257.

§4. — *Review and contestation proceedings*

1029.8.61.39. The Board may, on application, review any decision it has made.

An application for review must be made within 90 days of notification of the decision, unless the Board grants an extension.

The application must set out briefly the grounds for review.

2005, c.1, a. 257.

1029.8.61.40. The Board shall make a decision which dispatch and inform the individual concerned of the individual's right to contest the decision in the manner set out in section 1029.8.61.41.

Any unfavourable decision of the Board must include reasons.

2005, c.1, a. 257.

1029.8.61.41. Any review decision may be contested before the Administrative Tribunal of Québec within 60 days of notification.

Moreover, an individual may contest before the Tribunal the decision whose review the individual applied for if the Board does not make a decision within 90 days after the receipt of the application, subject to the following:

(a) if the individual who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(b) if the Board considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the individual who applied for the review must be notified of the extension.

2005, c.1, a. 257; 2006, c. 17, a. 37 (*c. i. f. 1st July 2006*).

1029.8.61.42. Any contestation in respect of the accuracy of information communicated to the Board by the Minister that relates to the computation of income, for the purpose of establishing the entitlement of an individual to the payment of an amount in respect of a child assistance payment, must be brought under the Act respecting the Ministère du Revenu (chapter M-31).

2005, c.1, a. 257.

§5. — *Recovery by the Minister*

1029.8.61.43. Where the Board notifies the Minister in accordance with section 1029.8.61.38, the Minister shall send the individual a notice stating that the amount owing to the Board by the individual is payable without delay to the Minister upon the sending of the notice.

2005, c.1, a. 257.

1029.8.61.44. Section 1029.8.61.37 does not apply in respect of an amount payable to the Minister under section 1029.8.61.43.

2005, c.1, a. 257.

1029.8.61.45. Where, for a taxation year, the Board has paid an amount as or on account of a child assistance payment to an individual or has allocated an amount to another of the individual's liabilities, and that amount is greater than the amount that should have been paid or allocated, the individual and the person who, at the end of the year, is the individual's cohabiting spouse are solidarily liable in respect of the payment to the Minister of that excess amount, to the extent that it may reasonably be considered that the excess amount relates to the application of section 1029.8.61.18 and that the person was the individual's cohabiting spouse at the time the payment was made.

However, nothing in this section limits the liability of the individual or of the individual's cohabiting spouse for the year, where applicable, under any other provision of this Act.

2005, c.1, a. 257.

1029.8.61.46. The Minister may at any time assess the cohabiting spouse of an individual in respect of an amount payable under section 1029.8.61.45, and Book IX applies, with the necessary modifications, to that assessment as if it had been made under Title II of that Book IX.

2005, c.1, a. 257.

1029.8.61.47. Where an individual and the individual's cohabiting spouse are, under section 1029.8.61.45, solidarily liable in respect of all or part of a liability of the individual, a payment by the individual affects the solidary liability of the cohabiting spouse only to the extent that the payment operates to reduce the individual's liability to an amount less than the amount in respect of which the cohabiting spouse is solidarily liable under section 1029.8.61.45.

2005, c.1, a. 257.

§6. — *Penal provision*

1029.8.61.48. The following persons are liable to a fine of \$250 to \$1 500 :

a) every person who, in order to obtain the payment of an amount in respect of a child assistance payment, fails to provide information or provides information knowing it to be false or misleading, or misrepresents a materiel fact; and

b) every person who assists or encourages another person to obtain or receive an amount in respect of a child assistance payment, knowing that the person is not entitled thereto.

Section 72 to 78.2 of the Act respecting the Ministère du Revenu (chapter M-31) do not apply in respect of the offence provided for in the first paragraph.

2005, c.1, a. 257.

§7. — *Administrative provisions*

1029.8.61.49. The Board shall administer the payment of an amount in respect of a child assistance payment.

2005, c.1, a. 257.

1029.8.61.50. For the purpose of administering the payment of an amount in respect of a child assistance payment, the Board acts under the responsibility of the Minister of Families, Seniors and the Status of Women.

For the purpose of such administration, the Board shall exercise the power conferred on it by this division and the powers under the Act respecting the Québec Pension Plan (chapter R-9) as necessary, in particular the power of inquiry provided for under section 30 of that Act.

2005, c.1, a. 257; 2006, c. 25, a. 14.

1029.8.61.51. The Board may require an individual receiving an amount in respect of a child assistance payment to provide it with documents or information so that it may ascertain whether the individual is entitled to receive that amount.

The Board may, during its inquiry, suspend the payment of an amount in respect of a child assistance payment if it has reasonable grounds to believe that the amount is being received without entitlement and the individual receiving the amount fails to provide the required documents or information.

The Board may suspend the payment of an amount in respect of a child assistance payment until it has been provided with the required documents or information if the individual receiving the amount fails to provide the required documents or information before the expiry of 45 days after the date of the request.

(S.Q. 2006, c. 13, a. 191, applies from taxation year 2007)

The Board shall give written notice of the suspension of payment, setting out the reasons for the suspension.

2005, c.1, a. 257.

1029.8.61.52. The Board may decide not to require the payment of an amount of less than \$2 and is not bound to pay such an amount.

2005, c.1, a. 257.

1029.8.61.53. The Board may enter into an agreement with any person, association, corporation or body, and with the Government, or a department or body of the Government.

It may also enter into an agreement with a government in Canada, or a department or agency of such a government.

2005, c.1, a. 257.

1029.8.61.54. The Board may, as a body responsible for the payment of an amount in respect of a child assistance payment, borrow sums from the Minister of Finance out of the financing fund established under the Act respecting the Ministère des Finances (chapter M-24.01).

The Minister of Finance may advance sums from the consolidated revenue fund to the Board, with the authorization of the Government and on the conditions it fixes.

2005, c.1, a. 257.

1029.8.61.55. The Board must, on or before the last day of February of a year, send to the Minister a return containing the prescribed information in respect of any amount paid to an eligible individual for the preceding year as or on account of a child assistance payment.

The Board shall inform the Minister of any changes in such information.

2005, c.1, a. 257.

1029.8.61.56. The Minister may remit all part of a debt if the Minister considers that, in the circumstances, recovery of the debt would be inappropriate.

2005, c.1, a. 257.

1029.8.61.57. The sums necessary for the payment of the amounts determined in respect of a child assistance payment under this division shall be taken out of the tax revenues collected under this Act.

2005, c.1, a. 257.

1029.8.61.58. The Board must, on or before 30 June of each year, report on its administration of this division to the Minister of Families, Seniors and the Status of Women. The report of the Board must be tabled by the Minister of Families, Seniors and the Status of Women within 15 days before the National Assembly, or, if the Assembly is not sitting, within 15 days of resumption.

The report must contain all the information required by the Minister of Families, Seniors and the Status of Women.

2005, c.1, a. 257; 2006, c. 25, a. 14.

1029.8.61.59. An advisory committee is formed of representatives from the Ministère de la Famille, des Aînés et de la Condition féminine, the Régie des rentes du Québec and the Ministère du Revenu to oversee the administration of the payment of amounts in respect of a child assistance payment.

The advisory committee is composed of six members, of whom three are appointed by the Minister of Families, Seniors and the Status of Women and three by the Minister of Revenue.

Among the members appointed by the Minister of Families, Seniors and the Status of Women, two must be members of the personnel of the Board.

2005, c.1, a. 257; 2006, c. 25, a. 14.

1029.8.61.60. The administration of the payment of an amount in respect of a child assistance payment by the Board under this division is done on behalf of the Minister of Revenue

2005, c.1, a. 257.

TRANSITIONAL PROVISIONS

(2). Subsection 1 applies from the taxation year 2005. However, where Division II.11.2 of Chapter III.1 of Title III of Book IX Part I of the Act applies to the taxation year 2005, the following rules apply :

1° the third paragraph of the section 1029.8.61.20 of the Act shall be read without reference to subparagraphs *b* and *c* thereof; and

2° section 1029.8.61.28 of the Act shall, where it applies before 1 April, be read without reference to the second paragraph thereof.

(3) Despite section 1029.8.61.28 of the Act, enacted by subsection 1, the Régie des rentes du Québec may make the first payment in respect of a child assistance payment as of 15 December 2004. The first payment shall include the amount determined in respect of a child assistance payment for January, February and March 2005.

Entries into force of the latest modifications

- **An Act to amend the Taxation Act and other legislative provisions, S.Q. 2006, c. 13)**

248. This Act comes into force on 13 June 2006.

- **An Act to amend the Act respecting the Ministère de la Famille et de l'Enfance and other legislative provisions**

16. This Act comes into force on 15 June 2006.

- **An Act to amend the Act respecting administrative justice and other legislative provisions**

50. The provisions of this Act come into force on the date or dates to be set by the Government.

O.C. 1021-2055 (G.O. 4853 16 novembre 2006) e.e.v. 1st July 2006