

c. D-7.1, r.1

Regulation respecting eligible training expenditures

An Act to promote workforce skills development and recognition

(R.S.Q., c. D-7.1, s. 20, par. 1 and 2)

Persons enrolled in the Directory of trainers maintained by the Société québécoise de développement de la main-d'oeuvre must, once their enrollment has expired, be accredited in accordance with the Regulation respecting the accreditation of training bodies, training instructors and training services (O.C. 764-97, 1997 G.O. 2, 2937).

1. For the purposes of the Act to promote workforce skills development and recognition (R.S.Q., c. D-7.1), the following training expenditures are eligible expenditures, in accordance with the conditions set forth in section 5 of the Act:

(1) the cost of training incurred by an employer for one of his employees and paid to a recognized educational institution within the meaning of section 7 of the Act, a training body, including a non-profit organization a multi-employer training service, or an instructor accredited by the Minister of Employment and Social Solidarity in accordance with the Act;

(2) the refund by an employer of training expenses assumed by one of his employees and paid to a recognized educational institution, a training body, including a non-profit organization, or an accredited instructor;

(3) the expenditures described in subparagraph 1 or 2 when made to an educational institution that is not recognized, a training body, including a non-profit organization, or an instructor not accredited by the Minister, provided that such expenditures fulfil the conditions set forth in subparagraph 4 of the first paragraph of section 6 of the Act;

(4) the salary or wages of an employee who gives training to the personnel of his employer within the framework of an activity organized by a training service accredited by the Minister in accordance with the Act;

(4.1) the wages of an employee who provides the personnel of other employers with training during an activity organized by a multi-employer training service accredited by the Minister in accordance with the Act;

(5) the salary or wages of an employee who gives to the personnel of his employer training that fulfils the conditions set forth in subparagraph 4 of the first paragraph of section 6 of the Act;

(6) the cost incurred by an employer, including a reimbursement to one of its employees, for an employee's participation in training organized by a professional order governed by the Professional Code (R.S.Q., c. C-26) where the employee is a member of that order;

(7) the salary or wages of an employee for the period during which the employee is in training, including part-time training leave, provided that training is given in accordance with subparagraphs 1 to 4 of the first paragraph of section 6 of the Act and, for on-the-job training and individual learning activities by means of information technologies, provided that the learning of the tasks or skills covered by the training has a specific duration set under a training plan and provided that, in the course of those

activities, the participant can be supervised or can interact with the organizer for the duration of the learning;

(8) the additional salary or wages paid by an employer to replace an employee in training for the portion in excess of the employee's salary or wages;

(9) the salary or wages of an employee on paid training leave for a return to full-time studies in a recognized educational institution or the salary or wages of the employee of a recognized educational institution or an institute affiliated to such an institution who is on leave for purposes of research or refresher training;

(10) the salary or wages of an employee loaned to an educational institution recognized for training purposes, as well as the time spent by a representative of the employer or of the workers on a joint training committee;

(11) expenses incurred for pedagogical support within the framework of a contract entered into by an employer and a recognized educational institution, a training body, including a non-profit organization, or an instructor accredited for that purpose by the Minister;

(12) the salary or wages and the expenses incurred by an employer for the development of a comprehensive or specialized training plan or a human resources development plan, including the wages and the expenses incurred for determining the employees' needs, for identifying training lacking and for assessing and recognizing their experience and skills;

(13) the salary or wages and the expenses incurred by an employer for developing or adapting training or a workplace skills development strategy in accordance with the workforce skills development and recognition framework, as well as for assessing the training or strategy, including its impact;

(14) the salary or wages and the expenses incurred by an employer for the preparation of training periods or apprenticeships, as well as the expenses for training the supervisor for a trainee, the guide for a teacher undergoing refresher training in the workplace or the person supervising a learner pursuant to subparagraph 3 of the third paragraph of section 25.6 of the Act;

(15) the salary or wages of a trainee, the supervisor for a trainee, the guide for a teacher undergoing refresher training in the workplace, a learner and the person supervising the learner pursuant to subparagraph 3 of the third paragraph of section 25.6 of the Act, for the time devoted exclusively to supervision, support and guidance activities;

(16) travel, lodging, meal and day care expenses paid by the employer in accordance with his policy or scales, for each participant in training, in an apprenticeship or in a training session that constitutes an eligible expenditure and, where applicable, the expenses of the employee in charge of the training and the expenses of the supervisor for a trainee, the guide for a teacher undergoing refresher training in the workplace or the person supervising a learner pursuant to subparagraph 3 of the third paragraph of section 25.6 of the Act;

(17) the salary or wages paid by an employer for creating or translating teaching materials;

(17.1) the expenses incurred by an employer for creating, translating or leasing teaching materials, the cost of acquiring such materials and the expenses for using information technologies in the proportion that they are used for the purposes of the training referred to in subparagraphs 1 to 4 of the first paragraph of section 6 of the Act;

(18) leasing expenses incurred by an employer, except where the employer and the lessor do not deal with one another at arm's length within the meaning of section 18 of the Taxation Act (R.S.Q., c. I-3) for premises or equipment for the time used for training given in accordance with section 6 of the Act;

(19) *(paragraph revoked)*;

(20) *(paragraph revoked)*;

(21) *(paragraph revoked)*;

(22) *(paragraph revoked)*;

(23) the wages and expenses incurred by an employer for a training activity offered to an employee within the framework of a workshop, convention or seminar, including living expenses in proportion to the duration of the training and the travelling expenses, provided that the cost of that activity is indicated separately under the cost of registration for the event and the employer is able to demonstrate that the activity is in conformity with the objectives of the Act; and

(24) the wages and expenses incurred by an employer for a training activity organized by a professional order for employees who are not members of that order, in accordance with the condition set forth in subparagraph 23;

(25) *(paragraph revoked)*;

(26) the wages and expenses incurred by an employer for the participation of an employee in training organized by an association one of whose goals is the upgrading of its members or the personnel of its members provided such training complies with the purpose of the Act and is provided by an expert in the field.

O.C. 1586-95, s. 1; O.C. 765-97, s. 1; O.C. 58-97, s. 1; S.Q. 2004, c. 31, s. 72; O.C. 1060-2007, s. 1.

2. *(Revoked)*.

O.C. 1586-95, s. 2; O.C. 765-97, s. 2; O.C. 58-97, s. 2; O.C. 1060-2007, s. 2.

3. The employer shall forward each year to the Minister the required general information using the form provided by the Commission, unless the employer holds a training initiative quality certificate.

O.C. 1586-95, s. 3; O.C. 1060-2007, s. 3.

4. An employer must be able to justify eligible or accepted training expenditures and to provide proof thereof. The employer must keep supporting documents concerning the expenditures for 6 years after the last year to which they relate.

For expenditures in salary or wages, justification is proved by the name of the employee to whom a salary or wages are paid as an eligible training expenditure and the total amount of the salary or wages paid for the time during which the employee's salary or wages constitute such an expenditure.

For expenditures for training given in accordance with subparagraph 4 of the first paragraph of section 6 of the Act, the employer must keep proof of the consultations held on the training plan of the enterprise. The employer must also be able to demonstrate the ability to issue attestations of training every year to every employee having participated in the training if the educational institution, body or instructor that gave the training does not issue an attestation specifying the purpose of the training activity in which the employee participated.

For an expenditure complying with section 12 of the Act, the employer must keep the statement referred to in section 85.4.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20).

O.C. 1586-95, s. 4; O.C. 58-97, s. 3; O.C. 1060-2007, s. 4.

5. *(Replaced)*.

O.C. 1586-95, s. 5; O.C. 1060-2007, s. 4.

6. *(Replaced).*

O.C. 1586-95, s. 6; O.C. 1060-2007, s. 4.

7. For the purpose of calculating the expenditures made by an employer in accordance with the Act and this Regulation,

(1) the word «employee» has the meaning assigned to it by paragraph 2 of the Schedule to the Act;

(2) *(paragraph revoked);*

(3) the words «trainee» or «teacher undergoing refresher training in the workplace» designate a person participating in a training session within the framework of an educational program offered by a recognized educational institution, except for the École du Barreau du Québec;

(3.1) the word «trainee» also includes the person placed with an employer as part of occupational training or training in preparation for employment offered by a community body accredited by the Minister as a training body;

(3.2) the word «training» includes occupational health and safety training provided it is an integral part of the skills to be acquired to perform a job;

(4) the salary or wages of an employee is the income calculated in accordance with Chapters I and II of title II of Book III of Part I of the Taxation Act (R.S.Q., c. I-3), but do not include director's fees or benefits referred to in Division II of Chapter II of that Title;

(4.1) an eligible expenditure as salary or wages includes contributions, premiums and assessments paid by an employer in respect of an employee for that salary or those wages, and provided for in the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), the Act respecting parental insurance (R.S.Q., c. A-29.011), the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) and the Employment Insurance Act (S.C. 1996, c. 23);

(5) for the purposes of subparagraphs 4, 4.1, 5, 7, 10, 12, 13, 14, 15, 17, 23, 24 and 26 of the first paragraph of section 1, the salaries or wages correspond to the product obtained by multiplying the number of hours during which the employee or trainee, as the case may be, participates in the training activity during the year by the salary or wages he receives, calculated on an hourly basis;

(6) where the conditions of an employee's contract make it impossible to calculate his salary or wages on an hourly basis, the salary or wages are deemed to be equal to the quotient obtained by dividing his salary or wages calculated on a yearly basis by 1950, which is the equivalent of 52 weeks at 37 and 1/2 hours per week;

(7) the cost to an employer of a training plan or a human resources development plan is the cost that he has incurred for training his employees and, where applicable, trainees or teachers undergoing refresher training in the workplace, or the cost that is attributable to the training planned for them;

(8) no part of an expenditure referred to in paragraphs 1 to 3 and 6 of section 1 corresponding to the amount paid or to be paid by the training instructor, in connection with the training given by the training instructor for the benefit of the employer or a person with whom the employer does not deal at arm's length within the meaning of section 18 of the Taxation Act for the use of premises, facilities or material, or as a consideration for the disposal of property, unless that consideration pertains to the part of the property that was consumed in the training process, is to be calculated;

(9) *(paragraph replaced);*

(10) *(paragraph replaced);*

(10.1) *(paragraph replaced);*

(11) *(paragraph replaced)*;

(12) where the instructor does not deal at arm's length with the employer within the meaning of section 18 of the Taxation Act, the amount referred to in subparagraphs 1, 2, 3, 11, 12, 13 and 14 of the first paragraph of section 1 shall be limited to the part of the activities that may be attributed to salaries or wages and to travel, lodging, meal and day care expenses incurred by the instructor in respect of the employees in charge of the training and the expenses described in subparagraph 17 of the first paragraph of section 1 incurred by the instructor for the training activity;

(13) the amount of an eligible training expenditure shall be reduced by the amount of any government assistance received or receivable in respect of that expenditure at the end of the year. Government assistance means assistance from a government, a municipality or other public body, whether in the form of a subsidy, grant, forgivable loan, tax credit, investment allowance or in any other form;

this provision does not apply to:

- an adapted enterprise with a certificate issued by the Office des personnes handicapées by virtue of section 37 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (R.S.Q., c. E-20.1);

- a person holding a childcare centre permit or a day care centre permit issued respectively under section 7 and section 11 of the Educational Childcare Act (R.S.Q., c. S-4.1.1) or accredited as a home childcare coordinating office pursuant to section 40 of that Act;

- an ambulance enterprise holding a permit issued under the Public Health Protection Act (R.S.Q., c. P-35) and the Corporation d'urgences-santé of the Metropolitan Montréal region;

(14) an eligible training expenditure may not be declared for a year prior to the year for which the training activity was completed.

O.C. 1586-95, s. 7; O.C. 58-97, s. 4; O.C. 765-97, s. 3; S.Q., 1997, c. 58, ss. 144 and 177; S.Q., 2004, c. 31, s. 72; O.C. 1060-2007, s. 5.

8. Omitted.

O.C. 1586-95, s. 8.

SCHEDULE 1

(Revoked)

O.C. 1586-95, Sch. 1; O.C. 1060-2007, s. 6.

O.C. 1586-95, 1995 G.O. 2, 3567

O.C. 58-97, 1997 G.O. 2, 699

O.C. 765-97, 1997 G.O. 2, 2740

O.C. 1060-2007, 2007 G.O. 2, 3678