[Français](http://www.ontario.ca/fr/lois/loi/90i02)

Income Tax Act

R.S.O. 1990, CHAPTER I.2

**Consolidation Period:** From April 19, 2021 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2021, c. 4, Sched. 11, s. 18](http://www.ontario.ca/laws/statute/S21004" \l "sched11s18).

Caution: Many provisions of this Act have special application rules. The reader should consult the Statutes of Ontario, 1992, chapter 18, Part VI, the Statutes of Ontario, 1992, chapter 25, the Statutes of Ontario, 1993, chapter 29, the Statutes of Ontario, 1996, chapter 1, Schedule C, the Statutes of Ontario, 1996, chapter 24, Part III, the Statutes of Ontario, 1997, chapter 10, Part I, the Statutes of Ontario, 1997, chapter 43, Schedule B, the Statutes of Ontario, 1998, chapter 9, s. 81, the Statutes of Ontario, 1998, chapter 34, Part VI, and the Statutes of Ontario, 1999, chapter 9, Part XII.

Legislative History: 1991, c. 47; 1992, c. 18, s. 55; 1992, c. 25, s. 1-12; 1993, c. 29; 1994, c. 17, s. 99; 1996, c. 1, Sched. C; 1996, c. 18, s. 1-3; 1996, c. 24, s. 11-25; 1996, c. 29, s. 9; 1997, c. 10, s. 1-6; 1997, c. 19, s. 9; 1997, c. 43, Sched. B (But see 1998, c. 34, s. 85); 1998, c. 5, s. 1-4; 1998, c. 9, s. 81; 1998, c. 34, s. 65-84; 1999, c. 9, s. 115-131; [2000, c. 10, s. 11-17](http://www.ontario.ca/laws/statute/S00010" \l "s11); [2000, c. 42, s. 47-65](http://www.ontario.ca/laws/statute/S00042" \l "s47s1); [2001, c. 8, s. 35-41](http://www.ontario.ca/laws/statute/S01008" \l "s35); [2001, c. 23, s. 126-140](http://www.ontario.ca/laws/statute/S01023" \l "s126); [2002, c. 22, s. 103-112](http://www.ontario.ca/laws/statute/S02022" \l "s103); [2003, c. 4, s. 11](http://www.ontario.ca/laws/statute/S03004" \l "s11s1); [2003, c. 5](http://www.ontario.ca/laws/statute/S03005" \l "s1); [2003, c. 7, s. 9-13](http://www.ontario.ca/laws/statute/S03007" \l "s9s1); [2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3); [2004, c. 29, s. 1-9](http://www.ontario.ca/laws/statute/S04029" \l "s1); [2004, c. 31, Sched. 19](http://www.ontario.ca/laws/statute/S04031" \l "sched19s1s1); [2005, c. 5, s. 33](http://www.ontario.ca/laws/statute/S05005" \l "s33s1); [2005, c. 31, Sched. 11](http://www.ontario.ca/laws/statute/S05031" \l "sched11s1); [2006, c. 9, Sched. F](http://www.ontario.ca/laws/statute/S06009" \l "schedfs1); [2006, c. 18](http://www.ontario.ca/laws/statute/S06018" \l "s1); [2006, c. 19, Sched. L, s. 11 (3)](http://www.ontario.ca/laws/statute/S06019" \l "schedls11s3); [2006, c. 33, Sched. N](http://www.ontario.ca/laws/statute/S06033" \l "schedns1s1); [2006, c. 33, Sched. Z.3, s. 14](http://www.ontario.ca/laws/statute/S06033" \l "schedz3s14s1); [2007, c. 7, Sched. 17](http://www.ontario.ca/laws/statute/S07007" \l "sched17s1); [2007, c. 8, s. 212](http://www.ontario.ca/laws/statute/S07008" \l "s212) (but see [Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*](http://www.ontario.ca/laws/public-statute-provisions-repealed-under-section-101-legislation-act-2006)); [2007, c. 11, Sched. B, s. 4](http://www.ontario.ca/laws/statute/S07011" \l "schedbs4s1); [2007, c. 15, s. 40](http://www.ontario.ca/laws/statute/S07015" \l "s40s1); [2008, c. 7, Sched. I](http://www.ontario.ca/laws/statute/S08007" \l "schedis1); [2008, c. 19, Sched. I](http://www.ontario.ca/laws/statute/S08019" \l "schedis1s1); [2009, c. 18, Sched. 13](http://www.ontario.ca/laws/statute/S09018" \l "sched13s1s1); [2009, c. 22, s. 98](http://www.ontario.ca/laws/statute/S09022" \l "s98) (but see [Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*](http://www.ontario.ca/laws/public-statute-provisions-repealed-under-section-101-legislation-act-2006)); [2009, c. 33, Sched. 16, s. 6](http://www.ontario.ca/laws/statute/S09033" \l "sched16s6s1); [CTS 16 MR 10 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices); [2011, c. 9, Sched. 20](http://www.ontario.ca/laws/statute/S11009" \l "sched20s1s1); [2014, c. 7, Sched. 13](http://www.ontario.ca/laws/statute/S14007" \l "sched13s1s1); [2014, c. 11, Sched. 6, s. 5](http://www.ontario.ca/laws/statute/S14011" \l "sched6s5s1); [CTS 6 OC 14 - 3](http://www.ontario.ca/laws/consolidated-statutes-change-notices); [2015, c. 38, Sched. 10](http://www.ontario.ca/laws/statute/S15038" \l "sched10s1s1); [CTS 15 JL 16 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices); [2021, c. 4, Sched. 11, s. 18](http://www.ontario.ca/laws/statute/S21004" \l "sched11s18).

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PART I  
INTERPRETATION

Interpretation

**1** (1)  In this Act,

“agreeing province” means a province that has entered into an agreement with the Government of Canada under which the Government of Canada will collect taxes payable under the income tax statute of that province and will make payments to that province in respect of the taxes so collected; (“province participante”)

“amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing; (“montant”, “somme”)

“assessment” includes a reassessment; (“cotisation”)

“bankrupt” has the meaning assigned by the Bankruptcy and Insolvency Act (Canada); (“failli”)

“business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment; (“entreprise”)

“collection agreement” means an agreement entered into under subsection 49 (1); (“accord de perception”)

“common-law partner” and “common-law partnership” have the meanings given to those expressions by subsection 248 (1) of the Federal Act; (“conjoint de fait”, “union de fait”)

“corporation” includes an incorporated company and a “corporation incorporated in Canada” includes a corporation incorporated in any part of Canada before or after it became part of Canada; (“société”)

“deputy head” means the Deputy Minister of Finance, or, where a collection agreement is entered into, means the Commissioner of Customs and Revenue appointed under section 25 of the Canada Customs and Revenue Agency Act (Canada); (“sous-ministre”)

“employed” means performing the duties of an office or employment; (“employé”)

“employee” includes an officer; (“employé”)

“employer”, in relation to an officer, means the person from whom the officer receives remuneration; (“employeur”)

“Federal Act” means the Income Tax Act (Canada); (“loi fédérale”)

“Federal Regulations” means the regulations made pursuant to the Federal Act; (“règlements fédéraux”)

“fiscal period” means a fiscal period determined in accordance with and for the purposes of the Federal Act; (“exercice”)

“highest tax rate” means, for a taxation year, the highest tax rate as defined in subsection 4 (1) for the year; (“taux d’imposition le plus élevé”)

“income tax statute” means, with reference to an agreeing province, the law of that province that imposes a tax similar to the tax imposed under this Act; (“loi de l’impôt sur le revenu”)

“individual” means a person other than a corporation and includes a trust referred to in subdivision k of Division B of Part I of the Federal Act; (“particulier”)

“loss” means a loss as determined in accordance with and for the purposes of the Federal Act; (“perte”)

“lowest tax rate” means, for a taxation year, the lowest tax rate as defined in subsection 4 (1) for the year; (“taux d’imposition le moins élevé”)

“Minister” means the Minister of National Revenue for Canada, but in any provision of the Federal Act that is incorporated by reference in this Act, unless a collection agreement has been entered into, a reference to the Minister shall be read and construed for the purposes of this Act as a reference to the Provincial Minister; (“ministre”)

“Ontario Health Premium” means the tax described in section 2.2; (“contribution-santé de l’Ontario”)

“permanent establishment” has the meaning given to that expression by subsection 2600 (2) of the Federal Regulations and, in the application of that subsection to a partnership, references to “individual” shall be read as references to the partnership; (“établissement stable”)

“person”, or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends; (“personne”)

“prescribed”, in the case of a form or the information to be given on a form, means prescribed by order of the Provincial Minister, and, in any other case, means prescribed by regulation; (“prescrit”)

“province” means a province of Canada and includes each of the territories of Canada; (“province”)

“Provincial Minister” means the Minister of Finance or, where a collection agreement is entered into, means,

(a) the Receiver General for Canada, in relation to the remittance of an amount as or on account of tax payable under this Act, and

(b) the Minister, in relation to the administration and enforcement of this Act other than,

(i) sections 8.5 and 8.6, subsections 10 (3) and (4) and sections 22.1, 28, 45, 49 and 53,

(i.1) section 8.4.1,

(i.2) Divisions C.1 and C.2 of Part II and provisions of this Act and the Federal Act that apply in respect of provisions in those Divisions,

(ii) in relation to the assessment of a penalty under subsection 19 (3.1),

(iii) in relation to an objection to an assessment of a penalty under subsection 19 (3.1) or an appeal from such an assessment, and

(iv) Part III as it applies in relation to the Ontario child care supplement for working families; (“ministre provincial”)

“qualifying environmental trust” means a qualifying environmental trust, as defined in subsection 248 (1) of the Federal Act, that is resident in Ontario; (“fiducie pour l’environnement admissible”)

“Receiver General for Canada” means the Receiver General for Canada, but in any provision of the Federal Act that is incorporated by reference in this Act, unless a collection agreement is entered into, a reference to the Receiver General for Canada shall be read and construed for the purposes of this Act as a reference to the Provincial Minister; (“receveur général du Canada”)

“regulation” means a regulation made under this Act; (“règlement”)

“taxable income” means taxable income as determined in accordance with and for the purposes of the Federal Act subject to variation on objection or on appeal, if any, in accordance with the Federal Act; (“revenu imposable”)

“taxation year” means,

(a) in the case of an individual, a calendar year, and

(b) in the case of an estate or trust arising on death, despite clause (a), a taxation year as defined in paragraph 104 (23) (a) of the Federal Act,

and, when a taxation year is referred to by reference to a calendar year, the reference is to the taxation year or years coinciding with, or ending in, that year; (“année d’imposition”)

“taxpayer” includes any person whether or not liable to pay tax. (“contribuable”) R.S.O. 1990, c. I.2, s. 1 (1); 1993, c. 29, s. 1 (1-5); 1996, c. 1, Sched. C, s. 1; 1996, c. 24, s. 11 (1); 1998, c. 34, s. 65 (1-5); 1999, c. 9, s. 115 (1); 2000, c. 10, s. 11; 2000, c. 42, s. 47; 2002, c. 22, s. 103; 2004, c. 16, s. 3; 2004, c. 29, s. 1.

Same

(1.1)  For the purposes of this Act, a trust referred to in subdivision k of Division B of Part I of the Federal Act includes an inter vivos trust deemed under subsection 149 (5) of the Federal Act to have been created and to have been in existence throughout a period that includes the last day of the taxation year. 1993, c. 29, s. 1 (6); 2004, c. 16, s. 3.

Idem

(2)  The expression “last day of the taxation year” shall, in the case of an individual who resided in Canada at any time in the taxation year but ceased to reside in Canada before the last day thereof, be deemed to be a reference to the last day in the taxation year on which the individual resided in Canada. R.S.O. 1990, c. I.2, s. 1 (2); 2004, c. 16, s. 3.

Same

(3)  The tax payable by a taxpayer under this Act or under Part I of the Federal Act means the tax payable by the taxpayer as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Act or Part I of the Federal Act, as the case may be. R.S.O. 1990, c. I.2, s. 1 (3); 2004, c. 16, s. 3.

Idem

(4)  For the purposes of this Act, except where they are at variance with the definitions contained in this section, the definitions and interpretations contained in or made by regulation under the Federal Act apply. R.S.O. 1990, c. I.2, s. 1 (4); 2004, c. 16, s. 3.

Idem

(5)  In any case of doubt, the provisions of this Act shall be applied and interpreted in a manner consistent with similar provisions of the Federal Act. R.S.O. 1990, c. I.2, s. 1 (5); 2004, c. 16, s. 3.

Modification of Federal provisions

(6)  Where a provision (in this subsection referred to as “that section”) of the Federal Act or the Federal Regulations is made applicable for the purposes of this Act, that section, as amended from time to time heretofore or hereafter, applies with such modifications as the circumstances require for the purposes of this Act as though it had been enacted as a provision of this Act and, in applying that section for the purposes of this Act, in addition to any other modifications required by the circumstances,

(a) a reference in that section to tax under Part I of the Federal Act shall be read as a reference to tax under this Act;

(b) where that section contains a reference to tax under any of Parts I.1 to XIV of the Federal Act, that section shall be read without reference therein to tax under any of those Parts and without reference to any portion of that section which applies only to or in respect of tax under any of those Parts;

(c) a reference in that section to a particular provision of the Federal Act that is the same as or similar to a provision of this Act shall be read as a reference to the provision of this Act;

(d) a reference in that section to a particular provision of the Federal Act that applies for the purposes of this Act shall be read as a reference to the particular provision as it applies for the purposes of this Act;

(e) where that section contains a reference to any of Parts I.1 to XIV of the Federal Act or to a provision in any of those Parts, that section shall be read without reference therein to that Part or without reference to that provision, as the case may be, and without reference to any portion of that section that applies only because of the application of any of those Parts or the application of a provision in any of those Parts;

(f) where that section contains a reference to the Bankruptcy and Insolvency Act (Canada), that section shall be read without reference therein to the Bankruptcy and Insolvency Act (Canada);

(g) a reference in that section to a Federal regulation that applies for the purposes of this Act shall be read as a reference to the regulation as it applies for the purposes of this Act;

(h) a reference in that section to a word or expression set out in Column 1 of the following Table shall be read as a reference to the word or expression set out opposite thereto in Column 2 of the following Table:

Table

|  |  |
| --- | --- |
| Column 1 | Column 2 |
| Her Majesty | Her Majesty in right of Ontario |
| Canada | Ontario |
| Canada Revenue Agency | Ontario Ministry of Finance |
| Commissioner of Customs and Revenue | Deputy Head |
| Minister | Provincial Minister |
| Deputy Attorney General of Canada | Deputy Attorney General of Ontario |
| Tax Court of Canada | Superior Court of Justice |
| Tax Court of Canada Act | Courts of Justice Act |
| Federal Court of Canada | Superior Court of Justice |
| Federal Courts Act | Courts of Justice Act |
| Registrar of the Tax Court of Canada | local registrar of the Superior Court of Justice |
| in the Registry of the Federal Court | in the Superior Court of Justice |

R.S.O. 1990, c. I.2, s. 1 (6); 1993, c. 29, s. 1 (7); 1996, c. 24, s. 11 (2); 1999, c. 9, s. 115 (2); 2001, c. 23, s. 126; 2004, c. 16, s. 3.

Application of s. 257, Federal Act

(7)  Section 257 of the Federal Act applies for the purposes of this Act. 1998, c. 34, s. 65 (6); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 1 (1-7) - 14/12/1993; 1996, c. 24, s. 11 (2) - 30/11/1992; 1998, c. 34, s. 65 (1-2) - 1/01/1998; 1998, c. 34, s. 65 (3) - 18/12/1998; 1998, c. 34, s. 65 (4, 6) - 1/07/1998; 1998, c. 34, s. 65 (5) - 1/01/1992; 1999, c. 9, s. 115 (1, 2) - 1/11/1999

[2000, c. 10, s. 11](http://www.ontario.ca/laws/statute/S00010" \l "s11) - 1/01/2000; [2000, c. 42, s. 47 (1-3)](http://www.ontario.ca/laws/statute/S00042" \l "s47s1) - 1/01/2000

[2001, c. 23, s. 126](http://www.ontario.ca/laws/statute/S01023" \l "s126) - 5/12/2001

[2002, c. 22, s. 103](http://www.ontario.ca/laws/statute/S02022" \l "s103) - 27/03/2003

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 1](http://www.ontario.ca/laws/statute/S04029" \l "s1) - 1/01/2004

[CTS 15 JL 16 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices) ; [CTS 16 MR 10 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

Application of Act

**1.1**(1)  Except as provided in subsection (2), this Act applies only in respect of taxation years ending before January 1, 2009. 2007, c. 11, Sched. B, s. 4 (1).

Application after 2008

(2)  Sections 8.5, 8.6, 8.7, 8.8 and 8.9 continue to apply for taxation years ending after December 31, 2008 and such other provisions of this Act as may be necessary for the purposes of the administration and enforcement of those sections continue to apply for those purposes for taxation years ending after December 31, 2008. 2007, c. 11, Sched. B, s. 4 (1).

**Section Amendments with date in force (d/m/y)**

[2007, c. 11, Sched. B, s. 4 (1)](http://www.ontario.ca/laws/statute/S07011" \l "schedbs4s1) - 4/06/2007

PART II  
INCOME TAX

Division A — Liability for Tax

Income tax on individuals

**2** An income tax shall be paid as hereinafter required for each taxation year by every individual,

(a) who was resident in Ontario on the last day of the taxation year; or

(b) who, not being resident in Ontario on the last day of the taxation year, had income earned in the taxation year in Ontario as defined in section 4. R.S.O. 1990, c. I.2, s. 2; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Tax on qualifying environmental trust

**2.1**  (1)  Every trust that is a qualifying environmental trust at the end of a taxation year is liable to a tax for the year. 2000, c. 42, s. 48; 2004, c. 16, s. 3.

Same

(2)  The tax payable by a qualifying environmental trust for a taxation year is only the amount determined for the year under section 4.1. 2000, c. 42, s. 48; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 48](http://www.ontario.ca/laws/statute/S00042" \l "s48) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Ontario Health Premium

**2.2**(1)  Every individual shall pay a tax, called the Ontario Health Premium, for a taxation year ending after December 31, 2003 if the individual is resident in Ontario on the last day of the taxation year. 2004, c. 29, s. 2.

Dual residency

(2)  If, on the last day of a taxation year, an individual is resident both in Ontario and in another jurisdiction, the individual shall be deemed for the purposes of this section to reside on that day in only that jurisdiction that may reasonably be regarded as the individual’s principal place of residence. 2004, c. 29, s. 2.

Exception, trust

(3)  Despite subsection (1), a trust is not required to pay the Ontario Health Premium. 2004, c. 29, s. 2.

Amount

(4)  The amount of the Ontario Health Premium payable by an individual for a taxation year is as determined under section 3.1. 2004, c. 29, s. 2.

**Section Amendments with date in force (d/m/y)**

[2004, c. 29, s. 2](http://www.ontario.ca/laws/statute/S04029" \l "s2) - 1/01/2004

Division B — Computation of Tax

individual income tax

Surtax

**3** (1)  Every individual shall pay an additional tax to be determined as follows in respect of the individual:

1. For the 1992 taxation year, the additional income tax shall equal the aggregate of,

i. 7 per cent of the amount, if any, by which the gross tax amount of the individual for the 1992 taxation year exceeds $5,500, and

ii. 7 per cent of the amount, if any, by which the gross tax amount of the individual for the 1992 taxation year exceeds $10,000.

2. For 1993, the additional income tax shall equal the aggregate of,

i. 17 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $5,500, and

ii. 8 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $8,000.

3. For the 1994 and 1995 taxation years, the additional income tax for each taxation year shall equal the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $5,500, and

ii. 10 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $8,000.

4. For 1996, the additional income tax shall equal the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $5,310, and

ii. 13 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $7,635.

5. For 1997, the additional income tax shall equal the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,555, and

ii. 26 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $6,180.

6. For 1998, the additional income tax shall equal the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,057.50, and

ii. 33 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $5,217.50.

7. For 1999, the additional income tax shall equal the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,750, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,681.

8. For the 2000 taxation year, the additional tax equals the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,561, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,468.

9. The additional tax for the 2001 taxation year is the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,560, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,491.

10. The additional tax for the 2002 taxation year is the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,685, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,648.

11. The additional tax for the 2003 taxation year is the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,747, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,727.

12. The additional tax for the 2004 taxation year is the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $3,856, and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds $4,864.

13. The additional tax for each taxation year after 2004 is the aggregate of,

i. 20 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds the amount calculated by adjusting $3,856 in accordance with subsection 4.0.2 (2), and

ii. 36 per cent of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds the amount calculated by adjusting $4,864 in accordance with subsection 4.0.2 (2). 1992, c. 25, s. 1; 1993, c. 29, s. 3; 1996, c. 1, Sched. C, s. 3; 1996, c. 18, s. 1; 1997, c. 10, s. 1; 1998, c. 5, s. 1; 1999, c. 9, s. 116; 2000, c. 10, s. 12; 2000, c. 42, s. 49; 2001, c. 8, s. 35; 2001, c. 23, s. 127; 2002, c. 22, s. 104; 2003, c. 7, s. 9; 2004, c. 16, s. 3.

Gross tax amount

(2)  The gross tax amount of an individual for a taxation year for the purposes of subsection (1) is the amount of tax that would be payable by the individual for the taxation year under this Act,

(a) before the addition of any amount determined under subsection (1), any amount payable under section 2.2 and any amount of additional tax determined under subsection 4.3 (2) or 4.6 (2); and

(b) before the deduction of any amount under subsection 4 (6) or any amount under section 8. 2004, c. 29, s. 3; 2005, c. 31, Sched. 11, s. 1.

**Section Amendments with date in force (d/m/y)**

1991, c. 47, s. 1 - 1/01/1991; 1992, c. 25, s. 1 - 1/01/1992; 1993, c. 29, s. 3 - 1/01/1993; 1996, c. 1, Sched. C, s. 3 - 23/02/1994; 1996, c. 18, s. 1 (1, 2) - 1/01/1996; 1997, c. 10, s. 1 - 1/01/1997; 1998, c. 5, s. 1 - 1/01/1998; 1999, c. 9, s. 116 - 1/01/1999

[2000, c. 10, s. 12 (1, 2)](http://www.ontario.ca/laws/statute/S00010" \l "s12s1) - 1/01/2000

[2001, c. 8, s. 35](http://www.ontario.ca/laws/statute/S01008" \l "s35) - 1/01/2001; [2001, c. 23, s. 127 (1, 2)](http://www.ontario.ca/laws/statute/S01023" \l "s127s1) - 1/01/2001

[2002, c. 22, s. 104 (1, 2)](http://www.ontario.ca/laws/statute/S02022" \l "s104s1) - 9/12/2002

[2003, c. 7, s. 9 (1, 2)](http://www.ontario.ca/laws/statute/S03007" \l "s9s1) - 1/01/2004

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 3](http://www.ontario.ca/laws/statute/S04029" \l "s3) - 1/01/2004

[2005, c. 31, Sched. 11, s. 1](http://www.ontario.ca/laws/statute/S05031" \l "sched11s1) - 1/01/2000

Calculation of the Ontario Health Premium

**3.1**(1)  The following is the amount of the Ontario Health Premium payable by an individual for a taxation year:

1. If the individual’s taxable income for the year does not exceed $20,000, the individual’s Ontario Health Premium for the year is nil.

2. If the individual’s taxable income for the year exceeds $20,000 but does not exceed $36,000, the individual’s Ontario Health Premium for the year is the amount calculated using the formula,

0.06 × A

in which,

“A” is the lesser of $5,000 and the amount of the individual’s taxable income in excess of $20,000 for the year.

3. If the individual’s taxable income for the year exceeds $36,000 but does not exceed $48,000, the individual’s Ontario Health Premium for the year is the amount calculated using the formula,

B + (0.06 × C)

in which,

“B” is $300, and

“C” is the lesser of $2,500 and the amount of the individual’s taxable income in excess of $36,000 for the year.

4. If the individual’s taxable income for the year exceeds $48,000 but does not exceed $72,000, the individual’s Ontario Health Premium for the year is the amount calculated using the formula,

D + (0.25 × E)

in which,

“D” is $450, and

“E” is the lesser of $600 and the amount of the individual’s taxable income in excess of $48,000 for the year.

5. If the individual’s taxable income for the year exceeds $72,000 but does not exceed $200,000, the individual’s Ontario Health Premium for the year is the amount calculated using the formula,

F + (0.25 × G)

in which,

“F” is $600, and

“G” is the lesser of $600 and the amount of the individual’s taxable income in excess of $72,000 for the year.

6. If the individual’s taxable income for the year exceeds $200,000, the individual’s Ontario Health Premium for the year is the amount calculated using the formula,

H + (0.25 × J)

in which,

“H” is $750, and

“J” is the lesser of $600 and the amount of the individual’s taxable income in excess of $200,000 for the year.

2004, c. 29, s. 4.

Bankruptcy

(2)  For the purposes of subsection (1), if an individual is bankrupt at any time in a year,

(a) the individual shall be deemed to have only one taxation year in the year, and that taxation year begins on January 1 and ends on December 31; and

(b) the individual’s taxable income for the taxation year shall be deemed to be the total amount of the individual’s taxable income for the year. 2004, c. 29, s. 4.

Death

(3)  For the purposes of subsection (1), the taxable income of an individual who dies in a particular year does not include income that is reported in a return filed as a result of an election made under subsection 70 (2), 104 (23) or 150 (4) of the Federal Act. 2004, c. 29, s. 4.

Transition, 2004

(4)  The amount of the Ontario Health Premium payable by an individual for a taxation year that ends on or before December 31, 2004 is 50 per cent of the amount otherwise calculated under subsection (1). 2004, c. 29, s. 4.

**Section Amendments with date in force (d/m/y)**

[2004, c. 29, s. 4](http://www.ontario.ca/laws/statute/S04029" \l "s4) - 1/01/2004

Calculation of income tax

Definitions

**4** (1)  In this section,

“federal refundable capital gains tax on hand” means, in respect of a mutual fund trust, the trust’s refundable capital gains tax on hand determined under section 132 of the Federal Act as of the same date that the determination is made for the purposes of this section; (“impôt fédéral en main remboursable au titre des gains en capital”)

“highest tax rate” means, for a taxation year, 11.16 per cent; (“taux d’imposition le plus élevé”)

“income earned in the taxation year in Ontario” means the amount of income that would be determined to be earned in the year in Ontario for the purposes of determining the amount of income earned in the year in a province under section 120 of the Federal Act; (“revenu gagné en Ontario au cours de l’année d’imposition”)

“income earned in the taxation year outside Ontario” means income for the year minus income earned in the taxation year in Ontario; (“revenu gagné hors de l’Ontario au cours de l’année d’imposition”)

“income for the year” means,

(a) in the case of an individual resident in Canada during part only of the taxation year in respect of whom section 114 of the Federal Act applies, the aggregate of,

(i) the individual’s income for the period or periods in the year referred to in paragraph 114 (a) of the Federal Act as determined in accordance with and for the purposes of the Federal Act, and

(ii) the individual’s income for the portion of that year that is not included in the period or periods referred to in subclause (i) computed under paragraphs 115 (1) (a), (b) and (c) of the Federal Act as though such portion of the year were the whole taxation year,

(b) in the case of an individual not resident in Canada at any time in the taxation year, the individual’s income for the year as computed under paragraphs 115 (1) (a), (b), (b.1) and (c) of the Federal Act, and

(c) in the case of any other individual, the individual’s income for the year as determined in accordance with and for the purposes of the Federal Act; (“revenu pour l’année”)

“lowest tax rate” means,

(a) 6.37 per cent for the 2000 taxation year,

(b) 6.16 per cent for the 2001 taxation year,

(c) 6.05 per cent for the 2002 and each subsequent taxation year; (“taux d’imposition le moins élevé”)

(d) Repealed: 2003, c. 7, s. 10 (1).

“middle tax rate” means,

(a) 9.62 per cent for the 2000 taxation year,

(b) 9.22 per cent for the 2001 taxation year,

(c) 9.15 per cent for the 2002 and each subsequent taxation year; (“taux d’imposition moyen”)

(d) Repealed: 2003, c. 7, s. 10 (2).

“Ontario allocation factor” means, in respect of an individual for a taxation year, the ratio of the amount of the individual’s income earned in the taxation year in Ontario to the amount of the individual’s income for the year; (“coefficient de répartition de l’Ontario”)

“Ontario refundable capital gains tax on hand” means, in respect of a mutual fund trust, the amount calculated under subsection (1.1); (“impôt ontarien en main remboursable au titre des gains en capital”)

“tax payable under the Federal Act” means the amount that, but for section 120 of the Federal Act, would be the tax payable by an individual under Part I of that Act for the taxation year in respect of which the expression is being applied, computed as if the individual were not entitled to a deduction under section 126, 127, 127.2, 127.4 or 127.41 of that Act. (“impôt payable en application de la loi fédérale”) R.S.O. 1990, c. I.2, s. 4 (1); 1996, c. 1, Sched. C, s. 4; 1996, c. 24, s. 12; 1999, c. 9, s. 117 (1); 2000, c. 10, s. 13 (1); 2000, c. 42, s. 50 (1); 2001, c. 23, s. 128 (1, 2); 2002, c. 22, s. 105; 2003, c. 7, s. 10; 2004, c. 16, s. 3.

Ontario refundable capital gains tax on hand

(1.1)  For a mutual fund trust, the amount of the Ontario refundable capital gains tax on hand at the end of a taxation year is the amount calculated using the formula,

A + B – C

in which,

“A” is the total of all amounts, each of which is an amount in respect of a particular taxation year that is either the taxation year or a prior taxation year ending after December 31, 1999 and throughout which the trust was a mutual fund trust, that is equal to the lesser of,

(a) the amount of tax that would be payable under this section by the trust for the year, calculated without reference to subsections (6) to (9.1), and

(b) the amount calculated using the formula,

T × R × F

in which “T” is the lesser of the trust’s income for the year and the amount of its taxed capital gains for the year for the purposes of section 132 of the Federal Act, “R” is the highest tax rate for the taxation year and “F” is the trust’s Ontario allocation factor for the year,

“B” is the total of all refunds to which the trust was entitled under subsection (8) for prior taxation years ending before January 1, 2000, and

“C” is the total of all refunds the trust was entitled to claim and claimed under subsection (8) for prior taxation years.

2000, c. 10, s. 13 (2); 2004, c. 16, s. 3.

Amount of tax before 2000, individuals

(2)  The amount of tax payable by an individual for a taxation year ending before January 1, 2000 is the amount determined under the applicable following paragraph:

1. If the individual resides in Ontario on the last day of the taxation year and has no income earned in the taxation year outside Ontario, the amount of tax payable by the individual for the taxation year is the amount calculated using the formula,

R × T

in which,

“R” is the percentage for the year specified in subsection (5), and

“T” is the amount of the tax payable under the Federal Act for the year.

2. If the individual resides in Ontario on the last day of the taxation year and has income earned in the taxation year outside Ontario or, if the individual does not reside in Ontario on the last day of the taxation year but has income earned in the year in Ontario, the amount of tax payable by the individual for the taxation year is the amount calculated using the formula,

F × R × T

in which,

“F” is the individual’s Ontario allocation factor for the year,

“R” is the percentage for the year specified in subsection (5), and

“T” is the amount of the tax payable under the Federal Act for the year.

2000, c. 10, s. 13 (3); 2004, c. 16, s. 3.

Amount of tax after 1999

(3)  The amount of tax payable for a taxation year ending after December 31, 1999 by an individual described in section 2 is the amount determined under the applicable following paragraph, less the deductions permitted under this section and plus the additional taxes, if any, payable under sections 2.2, 3 and 4.3 to 4.8:

1. If the individual’s taxable income for the year does not exceed $30,004, the amount of tax payable by the individual is calculated by multiplying the individual’s taxable income for the year by the lowest tax rate for the year.

2. If the individual’s taxable income for the year exceeds $30,004 but does not exceed $60,009, the amount of tax payable by the individual is calculated using the formula,

A + B

in which,

“A” is the amount calculated by multiplying $30,004 by the lowest tax rate for the year, and

“B” is the amount calculated by subtracting $30,004 from the individual's taxable income for the year, and then multiplying the resulting amount by the middle tax rate for the year.

3. If the individual’s taxable income for the year exceeds $60,009, the amount of tax payable by the individual is calculated using the formula,

A + C + D

in which,

“A” is the amount calculated by multiplying $30,004 by the lowest tax rate for the year,

“C” is the amount calculated by multiplying $30,005 by the middle tax rate for the year, and

“D” is the amount calculated by subtracting $60,009 from the individual’s taxable income for the year, and then multiplying the resulting amount by the highest tax rate for the year.

4. Despite paragraphs 1, 2 and 3, the amount of tax payable for the year by a trust to which subsection 122 (1) of the Federal Act applies is calculated by multiplying the trust’s taxable income for the year by the highest tax rate for the year. 2000, c. 42, s. 50 (2); 2004, c. 16, s. 3; 2004, c. 29, s. 5 (1).

Non-refundable credits

(3.1)  Subject to the rules in subsection (3.2), an individual may deduct from the amount of tax payable under paragraph 1, 2, 3 or 4 of subsection (3) for a taxation year ending after December 31, 1999 any of the following credits to which the individual is entitled for the taxation year in the amount determined for the year under section 4.0.1:

1. A spouse or common-law partner credit if the individual is entitled to include an amount under paragraph 118 (1) (a) of the Federal Act in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act.

2. A credit for a wholly dependent person if the individual is entitled to include an amount under paragraph 118 (1) (b) of the Federal Act in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act.

3. A single status credit if the individual is entitled to include an amount under paragraph 118 (1) (c) of the Federal Act in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act.

4. A credit for in-home care of a person if the individual is entitled to include an amount in respect of the person under paragraph 118 (1) (c.1) of the Federal Act in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act.

5. A credit for a dependant if the individual is entitled to include an amount in respect of the dependant under paragraph 118 (1) (d) of the Federal Act in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act.

6. A credit in respect of a person described in paragraph 118 (1) (e) of the Federal Act if the individual is entitled to include an amount under that paragraph in the calculation of his or her personal credit for the year under subsection 118 (1) of that Act in respect of the person.

7. An age credit if the individual is entitled to a deduction under subsection 118 (2) of the Federal Act for the year.

8. A credit for Employment Insurance premiums and Canada Pension Plan contributions if the individual is entitled to a deduction under section 118.7 of the Federal Act for the year.

9. A pension credit if the individual is entitled to a deduction under subsection 118 (3) of the Federal Act for the year.

9.1 An adoption expense credit if the individual is entitled to a deduction under subsection 118.01 (2) of the Federal Act for the year.

10. A credit in respect of a mental or physical impairment if the individual is entitled to a deduction under subsection 118.3 (1) of the Federal Act for the year.

11. A credit in respect of a disabled dependant if the individual is entitled to a deduction under subsection 118.3 (2) of the Federal Act for the year in respect of the dependant.

12. An amount in respect of unused tuition and education credits if the individual is entitled to a deduction under subsection 118.61 (2) of the Federal Act for the year.

13. A tuition credit if the individual is entitled to a deduction under subsection 118.5 (1) of the Federal Act for the year.

14. An education credit if the individual is entitled to a deduction under subsection 118.6 (2) of the Federal Act for the year.

15. Tuition and education credits transferred to the individual if the individual is entitled to a deduction under section 118.9 of the Federal Act for the year.

16. An amount transferred from a spouse or common-law partner if the individual is entitled to a deduction under section 118.8 of the Federal Act for the year.

17. A medical expense credit if the individual is entitled to a deduction under subsection 118.2 (1) of the Federal Act for the year.

18. A credit for charitable and other gifts if the individual is entitled to a deduction under subsection 118.1 (3) of the Federal Act for the year and deducts an amount under that subsection for the year.

19. A credit for interest on a student loan if the individual is entitled to a deduction under section 118.62 of the Federal Act for the year.

20. Repealed: 2006, c. 33, Sched. N, s. 1 (2).

2000, c. 42, s. 50 (3); 2004, c. 16, s. 3; 2006, c. 33, Sched. N, s. 1 (1, 2); 2008, c. 7, Sched. I, s. 1.

Rules

(3.2)  The following rules apply in determining the amount, if any, deductible by an individual under subsection (3.1) for a taxation year:

1. In calculating the total amount an individual may deduct under subsection (3.1), the individual shall deduct the credits to which he or she is entitled in the order in which the credits are listed in that subsection.

2. The total amount of the tax credits an individual may deduct under subsection (3.1) must not exceed the amount of tax payable by him or her under paragraph 1, 2, 3 or 4 of subsection (3) for the taxation year.

3. No pension credit or adoption expense credit may be deducted by an individual who is subject to tax for the taxation year by reason that he or she is an individual described in clause 2 (b).

4. Subsections 118 (4) to (6) and 118.3 (3) of the Federal Act apply with necessary modifications for the purposes of subsection (3.1).

5. An individual who becomes bankrupt in a calendar year is entitled to deduct only the credits described in the following subparagraphs in computing his or her tax payable for a taxation year that ends in the calendar year:

i. the credits the individual otherwise would be entitled to deduct under paragraphs 8, 9, 9.1, 13, 14, 17, 18 and 19 of subsection (3.1) for the taxation year that reasonably can be considered wholly applicable to the taxation year, and

ii. the part of the credits the individual otherwise would be entitled to deduct under paragraphs 1 to 7, 10, 11, 15 and 16 of subsection (3.1) for the taxation year that reasonably can be considered applicable to the taxation year.

6. The total of all credits deductible under paragraph 5 for all taxation years of an individual ending in a calendar year must not exceed the total amount that would have been deductible for the calendar year if the individual had not been bankrupt.

7. An individual who is resident in Canada only part of a taxation year is entitled to deduct only the following credits for the taxation year:

i. the credits the individual otherwise would be entitled to deduct under paragraphs paragraphs 8, 9, 9.1, 13, 14, 17, 18 and 19 of subsection (3.1) for the taxation year that reasonably can be considered wholly applicable to any period during the year in which the individual was resident in Canada, computed as if that period were the whole taxation year, and

ii. the part of any credits the individual otherwise would be entitled to deduct under paragraphs 1 to 7, 10, 11, 15 and 16 of subsection (3.1) for the taxation year that reasonably can be considered applicable to any period in the year in which the individual was resident in Canada, computed as though the period were the whole taxation year.

8. The total of all amounts deductible under paragraph 7 for the taxation year shall not exceed the total amount that would have been deductible for the taxation year if the individual had been resident in Canada throughout the year.

9. An individual who is not resident in Canada at any time in the taxation year is not entitled to deduct a credit under any of paragraphs 1 to 7, 9, 9.1, 10, 11, 14, 15, 16 and 17 of subsection (3.1) for the taxation year unless all or substantially all of the individual’s income for the year is included in computing his or her taxable income earned in Canada for the year for the purposes of the Federal Act.

10. If a separate return of income with respect to an individual is filed under subsection 70 (2), 104 (23) or 150 (4) of the Federal Act, as it applies for the purposes of this Act, for a particular period and another return of income with respect to the individual is filed under this Act for a period ending in the calendar year in which the particular period ends, the total of all credits under paragraphs 8, 9, 9.1, 10, 11, 12, 13, 14, 15, 17, 18 and 19 of subsection (3.1) claimed in the returns must not exceed the total that could be deducted under those paragraphs for the year with respect to the individual if no separate returns were filed.

11. No amount may be deducted under subsection (3.1), other than a credit under paragraph 18 of that subsection, in determining the amount of tax payable by a trust.

12. For the purposes of determining the amounts of unused credits that may be transferred for a taxation year ending after December 31, 2000 by a dependant, spouse or common-law partner who is resident in a province other than Ontario on the last day of the taxation year to an individual who is resident in Ontario on the last day of the taxation year, the individual may deduct the amount that the individual would be entitled to deduct under this Act if the dependant, spouse or common-law partner were resident in Ontario on the last day of the taxation year. 2000, c. 42, s. 50 (3); 2001, c. 23, s. 128 (3); 2004, c. 16, s. 3; 2006, c. 33, Sched. N, s. 1 (3-6).

Minimum tax carry-forward

(3.3)  In determining the amount of tax payable for a taxation year ending after December 31, 1999, an individual may deduct an amount not exceeding the lesser of,

(a) the amount of tax payable for the year under paragraph 1, 2, 3 or 4 of subsection (3), less all amounts deductible for the year under subsections (3.1), (3.4), (3.4.1), (3.5), (3.5.1) and (4.1); and

(b) the amount calculated for the year under subsection (3.3.1). 2000, c. 42, s. 50 (4); 2001, c. 23, s. 128 (4); 2004, c. 16, s. 3.

Calculation

(3.3.1)  For the purposes of clause (3.3) (b), the amount is calculated using the formula,

A + B + C – D

in which,

“A” is the amount equal to 37.5 per cent of the amount, if any, deducted by the individual under section 120.2 of the Federal Act for the taxation year in respect of a prior taxation year that ends before January 1, 2000 and is one of the seven preceding taxation years,

“B” is the total of all amounts each of which is the amount added under section 4.4 to the individual’s tax otherwise payable for a prior taxation year that ends after December 31, 1999 and is one of the seven preceding taxation years,

“C” is the amount equal to 37.5 per cent of that portion, if any, of the amount deducted by the individual under section 120.2 of the Federal Act for the taxation year that is in respect of a prior taxation year, to the extent it has not been included in determining the amount of “B” for a taxation year if,

(a) that prior taxation year ends after December 31, 1999 and is one of the seven preceding taxation years, and

(b) the individual was not resident in Ontario at the end of that prior taxation year but was resident at that time in another province, and

“D” is the total of all amounts deducted under this subsection in a prior taxation year that are included in the calculation of “A”, “B” or “C”.

2000, c. 42, s. 50 (4); 2001, c. 23, s. 128 (5); 2004, c. 16, s. 3.

Minimum tax carry-forward, after 2000

(3.3.2)  No amount may be deducted by an individual under subsection (3.3) for a taxation year ending after December 31, 2000 if the individual is required to pay an amount under section 4.4 for the taxation year. 2001, c. 23, s. 128 (6); 2004, c. 16, s. 3.

Additional deduction

(3.3.3)  In determining the amounts for a taxation year of “A” and “C” in the formula in subsection (3.3.1), the individual may include an additional amount equal to 37.5 per cent of the amount deducted by the individual under section 120.2 of the Federal Act for a prior taxation year if,

(a) the amount was not included by the individual in determining the amount of a deduction under subsection (3.3) for another taxation year because,

(i) the amount determined under clause (3.3) (a) for that other taxation year was less than the amount determined under clause (3.3) (b) for that year, or

(ii) the individual elected not to include the amount for that year;

(b) no additional amount in respect of the amount has been included under this subsection in the amounts of “A” and “C” in the formula in subsection (3.3.1) for a prior taxation year;

(c) the amount of “A” or “C” in the formula in subsection (3.3.1) was in respect of one of the seven preceding taxation years;

(d) each of the deductions for a prior taxation year under section 120.2 of the Federal Act that is referred to in the definitions of “A” and “C” in the formula in subsection (3.3.1) was multiplied by the ratio of the individual’s income earned in that prior taxation year in Ontario to the amount of the individual’s income for that year; and

(e) the additional amount to be included under this subsection in the amount of “A” and “C” in the formula in subsection (3.3.1) is not included in determining the amount of “T” in the formula in subsection (4). 2001, c. 23, s. 128 (6); 2004, c. 16, s. 3.

Same

(3.3.4)  In the determining the amount for a taxation year of “B” in the formula in subsection (3.3.1), the individual may include an additional amount equal to the deduction for income earned outside Ontario determined under subsection (4) that is in respect of “B” in the formula in subsection (3.3.1) for a prior taxation year if,

(a) the amount was not included by the individual in determining the amount of a deduction under subsection (3.3) for another taxation year;

(b) no additional amount in respect of the amount has been included under this subsection in the amount of “B” in the formula in subsection (3.3.1) for a prior taxation year;

(c) the amount of “B” in the formula in subsection (3.3.1), before the application of this subsection, was determined in any of the seven preceding taxation years; and

(d) the additional amount to be included under this subsection in the amount of “B” in the formula in subsection (3.3.1) is not included in determining the amount of “T” in the formula in subsection (4). 2001, c. 23, s. 128 (6); 2004, c. 16, s. 3.

Dividend tax credit

(3.4)  In determining the amount of tax payable for a taxation year ending after December 31, 1999 and before January 1, 2001, an individual who is resident in Ontario on the last day of the taxation year may deduct an amount equal to the lesser of,

(a) the prescribed percentage of the amount, if any, that is required by paragraph 82 (1) (b) of the Federal Act to be included in his or her income for the year or, if no percentage is prescribed, the amount equal to 25.67 per cent of the amount, if any, that is required by that paragraph of the Federal Act to be included in his or her income for the year; and

(b) the amount of tax payable by the individual for the year under paragraph 1, 2, 3 or 4 of subsection (3), less all amounts deductible for the year under subsection (3.1). 2000, c. 42, s. 50 (4); 2001, c. 8, s. 36 (2); 2004, c. 16, s. 3.

Dividend tax credit, 2001 to 2005

(3.4.1)  In determining the amount of tax payable for a taxation year ending after December 31, 2000 and before January 1, 2006, an individual who is resident in Ontario on the last day of the taxation year may deduct an amount equal to the lesser of,

(a) the amount of tax payable by the individual for the taxation year under paragraph 1, 2, 3 or 4 of subsection (3), less all amounts deductible for the year under subsection (3.1); and

(b) the amount, if any, calculated using the formula,

A/B × D

in which,

“A” is the highest tax rate for the year,

“B” is the highest percentage referred to in subsection 117 (2) of the Federal Act that applies in determining the amount of tax payable under Part I of that Act for the year, and

“D” is the amount, if any, that is deductible by the individual for the year under section 121 of the Federal Act.

2001, c. 8, s. 36 (3); 2004, c. 16, s. 3; 2006, c. 33, Sched. N, s. 1 (7).

Dividend tax credit, 2006 and later years

(3.4.2)  In determining the amount of tax payable for a taxation year ending after December 31, 2005, an individual who is resident in Ontario on the last day of the year may deduct an amount equal to the lesser of,

(a) the amount of tax payable by the individual for the taxation year under paragraph 1, 2, 3 or 4 of subsection (3), less all amounts deductible for the year under subsection (3.1); and

(b) the sum of,

(i) 38.4828 per cent of the amount determined in respect of the individual for the year under paragraph 121 (a) of the Federal Act, and

(ii) the specified percentage of the amount determined in respect of the individual for the year under paragraph 121 (b) of the Federal Act. 2006, c. 33, Sched. N, s. 1 (8).

Specified percentage

(3.4.3)  For the purposes of subclause (3.4.2) (b) (ii), the specified percentage is,

(a) 34.2727 per cent for a taxation year ending in 2006;

(b) 35.3273 per cent for a taxation year ending in 2007;

(c) 36.9091 per cent for a taxation year ending in 2008;

(d) 39.0182 per cent for a taxation year ending in 2009; and

(e) 40.6 per cent for a taxation year ending after 2009. 2006, c. 33, Sched. N, s. 1 (8).

Overseas employment tax credit

(3.5)  In determining the amount of tax payable for a taxation year ending after December 31, 1999 and before January 1, 2001, an individual who is resident in Ontario on the last day of the taxation year may deduct an amount equal to the prescribed percentage of the amount, if any, that is deductible by the individual for the year under section 122.3 of the Federal Act or, if no percentage is prescribed, the amount equal to 38.5 per cent of the amount, if any, that is deductible by the individual for the year under that section of the Federal Act. 2000, c. 10, s. 13 (3); 2001, c. 8, s. 36 (4); 2004, c. 16, s. 3.

Overseas employment tax credit, after 2000

(3.5.1)  In determining the amount of tax payable for a taxation year ending after December 31, 2000, an individual who is resident in Ontario on the last day of the taxation year may deduct an amount equal to the amount calculated using the formula,

A/B × P

in which,

“A” is the highest tax rate for the year,

“B” is the highest percentage referred to in subsection 117 (2) of the Federal Act that applies in determining the amount of tax payable under Part I of that Act for the year, and

“P” is the amount, if any, that is deductible by the individual for the year under section 122.3 of the Federal Act.

2001, c. 8, s. 36 (5); 2004, c. 16, s. 3.

Deduction for income earned outside Ontario

(4)  There may be deducted from the amount of tax otherwise payable by an individual for a taxation year ending after December 31, 1999 an amount calculated using the formula,

T × A/B

in which,

“A” is the amount of the individual’s income earned in the taxation year outside Ontario,

“B” is the amount of the individual’s income for the year, and

“T” is the amount of tax that would be payable under this section by the individual for the taxation year, calculated without reference to subsections (6) to (9.1).

2000, c. 10, s. 13 (3); 2004, c. 16, s. 3.

Additional deduction

(4.1)  In addition to the amount that may be deducted under subsection (4), there may be deducted from the amount of tax otherwise payable by an individual for a taxation year ending after December 31, 1999 an amount calculated using the formula,

G × H/I

in which,

“G” is the total of all amounts the individual is entitled to deduct and deducts under this section as a pension credit, dividend tax credit or overseas employment tax credit for the taxation year,

“H” is the amount of the individual’s income earned in the taxation year outside Ontario, and

“I” is the amount of the individual’s income for the year.

2000, c. 42, s. 50 (5); 2004, c. 16, s. 3.

Idem

(5)  For the purposes of this section, the percentage of the tax payable under the Federal Act to be used for computing the tax payable under this section is,

(a) 16 per cent in respect of the 1962 taxation year;

(b) 17 per cent in respect of the 1963 taxation year;

(c) 18 per cent in respect of the 1964 taxation year;

(d) 21 per cent in respect of the 1965 taxation year;

(e) 24 per cent in respect of the 1966 taxation year;

(f) 28 per cent in respect of the 1967, 1968, 1969 and 1970 taxation years;

(g) 27.5 per cent in respect of the 1971 taxation year;

(h) 30.5 per cent in respect of the 1972, 1973, 1974, 1975 and 1976 taxation years;

(i) 44 per cent in respect of the 1977, 1978, 1979 and 1980 taxation years;

(j) 46 per cent in respect of the 1981 taxation year;

(k) 48 per cent in respect of the 1982, 1983, 1984 and 1985 taxation years;

(l) 50 per cent in respect of the 1986 and 1987 taxation years;

(m) 51 per cent in respect of the 1988 taxation year;

(n) 52 per cent in respect of the 1989 taxation year;

(o) 53 per cent in respect of the 1990 and 1991 taxation years;

(p) 54.5 per cent in respect of the 1992 taxation year;

(q) 58 per cent in respect of the 1993, 1994 and 1995 taxation years;

(r) 56 per cent in respect of the 1996 taxation year;

(s) 48 per cent in respect of the 1997 taxation year;

(t) 42.75 per cent in respect of the 1998 taxation year;

(u) 39.5 per cent in respect of the 1999 taxation year.

(v) Repealed: 2000, c. 10, s. 13 (4).

R.S.O. 1990, c. I.2, s. 4 (5); 1992, c. 25, s. 2; 1993, c. 29, s. 4; 1996, c. 18, s. 2; 1997, c. 10, s. 2; 1998, c. 5, s. 2; 1999, c. 9, s. 117 (3); 2000, c. 10, s. 13 (4); 2004, c. 16, s. 3.

Foreign tax credit

(6)  An individual who was resident in Ontario on the last day of a taxation year and who had income for the year that included income earned in a country other than Canada in respect of which an amount of non-business-income tax was paid by the individual to the government of that country for the year, may deduct in computing the individual’s tax payable under this Act for the year, a foreign tax credit equal to the lesser of “A” and “B” where,

“A” is the amount, if any, by which the non-business-income tax paid by the individual for the year to the government of each country other than Canada exceeds the sum of,

(a) all amounts, if any, deductible by the individual from tax under the Federal Act for the year under subsection 126 (1), (2.2), (2.21) or (2.22) of that Act, and

(b) the amount of the individual’s special foreign tax credit for the year as determined under subsection 127.54 (2) of the Federal Act, and

“B” is the amount, if any, determined by multiplying the tax otherwise payable by the individual for the taxation year by the ratio of “C” to “D” where,

“C” is the total amount, if any, determined in respect of the individual for the year under subparagraph 126 (1) (b) (i) of the Federal Act, and

“D” is the amount, if any, by which “E” exceeds “F” where,

“E” is,

(a) if section 114 of the Federal Act is not applicable to the individual for the year, the individual’s income earned in Ontario for the year, or

(b) if section 114 of the Federal Act is applicable to the individual for the year, the amount that would be the individual’s income earned in Ontario for the year if the amount determined under the Federal Act were equal to the individual’s income determined under paragraph 114 (a) of the Federal Act, and

“F” is the amount, if any, determined under subclause 126 (1) (b) (ii) (A) (III) of the Federal Act in respect of the individual for the taxation year. 2006, c. 33, Sched. N, s. 1 (9).

Rules re foreign tax credit

(7)  The following rules apply in respect of an individual’s foreign tax credit for a taxation year:

1. Subsection 126 (6) of the Federal Act and the definition of “non-business-income tax” in subsection 126 (7) of the Federal Act apply for the purposes of subsection (6).

2. For the purposes of subsection (6), the expressions “tax payable” and “tax otherwise payable” by an individual for a taxation year mean the amount of tax payable under this Act, other than the Ontario Health Premium, by the individual for the taxation year before deducting all amounts, if any, deductible by the individual for the year under subsection 4 (3.4), (3.5) or (6) or section 8. 2006, c. 33, Sched. N, s. 1 (9).

Mutual fund trust capital gains refund

(8)  A mutual fund trust that is entitled to a refund under section 132 of the Federal Act for a taxation year is entitled to receive a capital gains refund for the taxation year calculated as follows, and to receive it at the time and in the manner provided in section 132 of the Federal Act for the refund in that section:

1. If the mutual fund trust has no income earned in the taxation year outside Ontario and if the taxation year ends before January 1, 2000, the capital gains refund for the year is the amount calculated using the formula,

F × P

in which,

“F” is the amount of the trust’s refund for the year under section 132 of the Federal Act, and

“P” is the percentage referred to in subsection (5) that is used in computing tax payable for the year.

2. If the mutual fund trust has income earned in the taxation year outside Ontario and if the taxation year ends before January 1, 2000, the capital gains refund for the year is the amount calculated using the formula,

F × R

in which,

“F” is its Ontario allocation factor for the year, and

“R” is the amount that would have been its capital gains refund for the year if all of its income had been earned in the taxation year in Ontario.

3. If the mutual fund trust’staxation year ends after December 31, 1999, the capital gains refund for the year is the lesser of,

i. its Ontario refundable capital gains tax on hand at the end of the taxation year, and

ii. the amount calculated using the formula,

F × G × R

in which,

“F” is its Ontario allocation factor for the year,

“G” is its capital gains redemptions for the year for the purposes of section 132 of the Federal Act, and

“R” is the prescribed percentage of the highest tax rate for the taxation year or, if no percentage is prescribed, 75 per cent of the highest tax rate for the taxation year.

2000, c. 10, s. 13 (6); 2004, c. 16, s. 3.

Additional refund

(9)  A mutual fund trust that is entitled to a capital gains refund for a taxation year under subsection (8) and that has paid or is liable for payment of an amount under section 3 for the taxation year is entitled to receive an additional refund for the taxation year equal to the lesser of,

(a) the amount paid or payable by the mutual fund trust under section 3 for the taxation year; and

(b) the amount determined by multiplying the mutual fund trust’s capital gains refund for the taxation year calculated under subsection (8) by the percentage referred to in section 3 used in the determination of the amount paid or payable by the mutual fund trust under that section for the taxation year. R.S.O. 1990, c. I.2, s. 4 (9); 2004, c. 16, s. 3.

Same

(9.1)  If a mutual fund trust’s refund for a taxation year under section 132 of the Federal Act is equal to the amount of its federal refundable capital gains tax on hand at the end of that year, the trust is entitled to receive an additional refund for the taxation year in the amount, if any, calculated using the formula,

(A + B + C) – (D + E)

in which,

“A” is the total of all amounts each of which is an amount in respect of a prior taxation year ending after 1995 and before 2000 that is calculated under subsection (9.2),

“B” is the total of all amounts each of which is the amount of the trust’s Ontario refundable capital gains tax on hand at the end of each taxation year ending after 1999,

“C” is the total of all amounts, each of which is the amount that would be the trust’s surcharge under section 3 for a taxation year ending after 1995, if the amount of “A” or “B”, whichever applies for the year, were its gross tax amount determined under subsection 3 (2) for the year,

“D” is the total of all amounts previously refunded to the trust under this subsection, and

“E” is the total of all amounts refunded to the trust under subsections (8) and (9) in respect of taxation years ending after 1995.

2000, c. 10, s. 13 (7); 2004, c. 16, s. 3.

Same

(9.2)  Each amount in respect of a prior taxation year that is to be included in “A” in subsection (9.1) is calculated using the formula,

F × P × X

in which,

“F” is the trust’s Ontario allocation factor for the prior year,

“P” is the percentage referred to in subsection (5) used in computing the tax payable under this section by the trust for the prior year, and

“X” is the amount added to the trust’s federal refundable capital gains tax on hand at the end of the prior year.

2000, c. 10, s. 13 (7); 2004, c. 16, s. 3.

Application of refund

(10)  Where a mutual fund trust is entitled to receive a refund under subsection (8) and is liable or is about to become liable to make any payment under this Act, the Minister may apply all or part of the amount that would otherwise be refunded under subsection (8), and under subsections (9) and (9.1) if applicable, to the liability and pay to the mutual fund trust the balance, if any, of the refund not so applied, and shall notify the mutual fund trust of the application of the amount of the refund not paid to the mutual fund trust. R.S.O. 1990, c. I.2, s. 4 (10); 1999, c. 9, s. 117 (6); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 2 - 1/01/1992; 1996, c. 1, Sched. C, s. 4 - 23/02/1994; 1996, c. 18, s. 2 - 1/01/1996; 1996, c. 24, s. 12 - 1/03/1994; 1997, c. 10, s. 2 - 1/01/1997; 1998, c. 5, s. 2 - 1/01/1998; 1999, c. 9, s. 117 (1, 2) - 1/01/1998 1999, c. 9, s. 117 (3, 5, 6, 7) - 1/01/1999; 1999, c. 9, s. 117 (4) - 14/12/1999

[2000, c. 10, s. 13 (1-7)](http://www.ontario.ca/laws/statute/S00010" \l "s13s1) - 1/01/2000; [2000, c. 42, s. 50 (1-5)](http://www.ontario.ca/laws/statute/S00042" \l "s50s1) - 1/01/2000

[2001, c. 8, s. 36 (2-5)](http://www.ontario.ca/laws/statute/S01008" \l "s36s2) - 1/01/2001; [2001, c. 23, s. 128 (1-4, 6)](http://www.ontario.ca/laws/statute/S01023" \l "s128s1) - 1/01/2001; [2001, c. 23, s. 128 (5)](http://www.ontario.ca/laws/statute/S01023" \l "s128s5) - 1/01/2000; [2001, c. 23, s. 128 (7)](http://www.ontario.ca/laws/statute/S01023" \l "s128s7) - 1/01/1996

[2002, c. 22, s. 105 (1, 2)](http://www.ontario.ca/laws/statute/S02022" \l "s105s1) - 9/12/2002

[2003, c. 7, s. 10 (1, 2)](http://www.ontario.ca/laws/statute/S03007" \l "s10s1) - 1/01/2004

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 5 (1, 2)](http://www.ontario.ca/laws/statute/S04029" \l "s5s1) - 1/01/2004

[2005, c. 31, Sched. 11, s. 2 (1)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s2s1) - no effect - see [2006, c. 33, Sched. N, s. 1 (2)](http://www.ontario.ca/laws/statute/S06033" \l "schedns1s2) - 1/01/2005; [2005, c. 31, Sched. 11, s. 2 (2, 3)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s2s2) - no effect - see [2006, c. 33, Sched. N, s. 1 (6)](http://www.ontario.ca/laws/statute/S06033" \l "schedns1s6) - 1/01/2005

[2006, c. 33, Sched. N, s. 1 (1-6)](http://www.ontario.ca/laws/statute/S06033" \l "schedns1s1) - 1/01/2005; [2006, c. 33, Sched. N, s. 1 (7-9)](http://www.ontario.ca/laws/statute/S06033" \l "schedns1s7) - 1/01/2006

[2008, c. 7, Sched. I, s. 1](http://www.ontario.ca/laws/statute/S08007" \l "schedis1) - 14/05/2008

Non-refundable credits

**4.0.1**  (1)  The amounts of the non-refundable credits for a taxation year, if any, that may be deducted by an individual under subsection 4 (3.1) are the amounts determined under this section after any adjustments required for the year by section 4.0.2. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Credit, spouse, etc.

(2)  The amount of an individual’s spouse or common-law partner credit for a taxation year is the amount calculated using the formula,

A × [$7,231 + $6,140 – (B – $614)]

in which,

“A” is the lowest tax rate for the year, and

“B” is the greater of $614 and the income for the year of the individual’s spouse or common-law partner or, if the individual and the individual’s spouse or common-law partner are living separate and apart at the end of that year by reason of a breakdown of their marriage or common-law partnership, the income of the spouse or common-law partner while married or in the common-law partnership and not separated during the year.

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Credit, wholly dependent person

(3)  The amount of an individual’s credit for a wholly dependent person for a taxation year is the amount calculated using the formula,

A × [$7,231 + $6,140 – (C – $614)]

in which,

“A” is the lowest tax rate for the year, and

“C” is the greater of $614 and the income for the year of the person referred to in paragraph 118 (1) (b) of the Federal Act whom the individual supports.

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Single status credit

(4)  The amount of an individual’s single status credit for a taxation year is the product of the lowest tax rate for the year multiplied by $7,231. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Credit, in-home care

(5)  The amount of an individual’s credit for a taxation year for in-home care of a person is the amount calculated using the formula,

A × (ZZ – D)

in which,

“A” is the lowest tax rate for the year,

“D” is the greater of the person’s income for the year and,

(a) $11,661 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $11,976 for a taxation year ending after December 31, 2000, and

“ZZ” is,

(a) $14,047 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $15,476 for a taxation year ending after December 31, 2000.

2001, c. 8, s. 37 (1); 2004, c. 16, s. 3.

Dependant credit

(6)  The amount of an individual’s credit for a taxation year in respect of a dependant described in paragraph 118 (1) (d) of the Federal Act is the amount calculated using the formula,

A × (YY – E)

in which,

“A” is the lowest tax rate for the year,

“E” is the greater of the dependant’s income for the year and,

(a) $4,845 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $4,976 for a taxation year ending after December 31, 2000, and

“YY” is,

(a) $7,231 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $8,476 for a taxation year ending after December 31, 2000.

2001, c. 8, s. 37 (1); 2004, c. 16, s. 3.

Additional amount

(7)  The amount of an individual’s credit for a taxation year referred to in paragraph 6 of subsection 4 (3.1) is the amount, if any, in respect of the person calculated using the formula,

A × (F – G)

in which,

“A” is the lowest tax rate for the year,

“F” is the amount that would be determined for the year in respect of the person under subsection (5) or (6), as the case may be, if paragraph 118 (4) (c) of the Federal Act did not apply for the purposes of subsection 118 (1) of that Act, and

“G” is the amount determined for the year under subsection (3).

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Age credit

(8)  The amount of an individual’s age credit for a taxation year is the amount calculated using the formula,

A × ($3,531 – H)

in which,

“A” is the lowest tax rate for the year, and

“H” is 15 per cent of the amount, if any, by which the individual’s income for the year would exceed $26,284 if no amount were included in his or her income in respect of a gain from a disposition of property to which section 79 of the Federal Act applies.

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Credit, EI premiums, etc.

(9)  The amount of an individual’s credit described in paragraph 8 of subsection 4 (3.1) for a taxation year is the amount that would be determined in respect of the individual for the year under section 118.7 of the Federal Act if the appropriate percentage referred to in that section were the lowest tax rate. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Pension credit

(10)  The amount of an individual’s pension credit for a taxation year is the amount calculated using the formula,

A × I

in which,

“A” is the lowest tax rate for the year, and

“I” is the lesser of $1,000 and,

(a) the amount of the individual’s pension income for the year for the purposes of subsection 118 (3) of the Federal Act, if he or she has attained the age of 65 years before the end of the year, or

(b) the amount of the individual’s qualified pension income for the year for the purposes of that subsection in any other case.

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Credit, adoption expense

(10.1)  The amount of an individual’s adoption expense credit in respect of an eligible child for a taxation year is the amount calculated using the formula,

A × II

in which,

“A” is the lowest tax rate for the year, and

“II” is the lesser of,

(a) $10,000, and

(b) the amount determined using the formula,

JJ – KK

in which,

“JJ” is the total of all eligible adoption expenses in respect of the eligible child included in computing a deduction under subsection 118.01 (2) of the Federal Act for the year, and

“KK” is the sum of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than an amount that is included in computing the individual’s income and that is not deductible in computing the individual’s taxable income) that any individual is or was entitled to receive in respect of an amount included in computing the amount of “JJ”.

2006, c. 33, Sched. N, s. 2 (1).

Apportionment of adoption expense credit

(10.2)  If more than one individual is entitled to an adoption expense credit for a taxation year in respect of the same eligible child, the total amount of all adoption expense credits claimed by the individuals in respect of that child shall not exceed the maximum amount that any one of them would be entitled to claim for the year in respect of that child if that individual were the only individual entitled to an adoption expense credit for the year, and if the individuals cannot agree on the portion of the total credit amount to which each is entitled, the Provincial Minister may fix the portions. 2006, c. 33, Sched. N, s. 2 (1).

Definitions

(10.3)  For the purposes of subsections (10.1) and (10.2), “eligible adoption expense” and “eligible child” have the meanings assigned by subsection 118.01 (1) of the Federal Act. 2006, c. 33, Sched. N, s. 2 (1).

Credit, impairment

(11)  The amount of an individual’s credit for a taxation year ending after December 31, 1999 and before January 1, 2001 in respect of a mental or physical impairment is the amount determined by multiplying $4,293 by the lowest tax rate for the year. 2000, c. 42, s. 51; 2001, c. 8, s. 37 (2); 2004, c. 16, s. 3.

Credit after 2000, impairment

(11.1)  The amount of an individual’s credit for a taxation year ending after December 31, 2000 in respect of a mental or physical impairment is the amount calculated using the formula,

A × ($6,000 + XX)

in which,

“A” is the lowest tax rate for the year, and

“XX” is,

(a) for an individual who has not reached 18 years of age before the end of the taxation year, the amount, if any, by which $3,500 exceeds the amount, if any, by which the total of all amounts each of which is an amount paid in the year for the care or supervision of the individual and is included in computing a deduction for a taxation year under section 63, 64 or 118.2 of the Federal Act exceeds $2,050, or

(b) in any other case, zero.

2001, c. 8, s. 37 (3); 2004, c. 16, s. 3.

Credit, disabled dependant

(12)  The amount of an individual’s credit for a taxation year in respect of a disabled dependant is the amount, if any, by which “J” exceeds “K” where,

“J” is the amount the dependant is entitled to deduct for the year under paragraph 10 of subsection 4 (3.1), and

“K” is the amount, if any, equal to the amount of tax that would be payable by the dependant for the year under paragraph 1, 2 or 3 of subsection 4 (3), less the amount that would be the total of the dependant’s credits for the year under paragraphs 1 to 9 of subsection 4 (3.1). 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Unused tuition and education credits

(13)  The amount of an individual’s unused tuition and education credits for a taxation year is the lesser of “L” and “M” where,

“L” is the amount of the individual’s unused tuition and education tax credits at the end of the prior taxation year, calculated using the formula in subsection (14), and

“M” is the amount of tax that would be payable by the individual for the year under subsection 4 (3) if no amount were deductible under paragraphs 13 to 19 of subsection 4 (3.1) or under subsection 4 (3.4) for the year and if no tax were payable under section 3 for the year. 2001, c. 8, s. 37 (4); 2004, c. 16, s. 3.

Same

(14)  For the purposes of subsection (13), the amount is calculated using the formula,

N + (P – Q) – (R + S)

in which,

“N” is the amount of the individual’s unused tuition and education credits at the end of the taxation year ending immediately before the prior taxation year,

“P” is the total amount of the individual’s tuition credit and education credit for the prior taxation year,

“Q” is the lesser of “P” and the amount that would be payable by the individual for the prior taxation year under subsection 4 (3) if no amount were deductible under paragraphs 13 to 19 of subsection 4 (3.1) or under subsection 4 (3.4) for the prior taxation year and no tax were payable under section 3 for that year,

“R” is the amount that may be deducted under paragraph 12 of subsection 4 (3.1) for the prior taxation year, and

“S” is the tuition and education credits transferred for the prior taxation year by the individual to the individual’s spouse, common-law partner, parent or grandparent.

2000, c. 42, s. 51; 2001, c. 8, s. 37 (5); 2004, c. 16, s. 3; 2021, c. 4, Sched. 11, s. 18.

Transition, unused tuition and education credits

(15)  If an individual was resident in a province other than Ontario on the last day of the prior taxation year, the individual’s unused tuition and education credits at the end of that year equals the amount that would be his or her unused tuition and education credits at the end of that year,

(a) as determined under the comparable provision of a taxing statute of the other province, calculated as if the percentage applied under the relevant provisions of that statute were, at all material times, the lowest tax rate instead of the percentage applied under those provisions; or

(b) if there is no comparable provision of a taxing statute of the other province, as determined under section 118.61 of the Federal Act, calculated as if the percentage applied under sections 118.5 and 118.6 of that Act in computing the individual’s tuition and education credits were, at all material times, the lowest tax rate instead of the appropriate percentage as defined in that Act. 2001, c. 8, s. 37 (6); 2004, c. 16, s. 3.

Same

(16)  Despite subsection (14), the amount of an individual’s unused tuition and education credits at the end of the 1999 taxation year equals the amount that would be the individual’s unused tuition and education credits at the end of that year under section 118.61 of the Federal Act if the percentage applied under sections 118.5 and 118.6 of that Act in computing the individual’s tuition and education credits had been 6.37 per cent instead of the appropriate percentage. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Same, after 1999

(16.1)  For the purposes of the definition of “L” in subsection (13), the amount of an individual’s unused tuition and education credits at the end of a prior taxation year, if the prior taxation year ends after December 31, 1999, is the amount calculated using the formula,

A/VV × WW

in which,

“A” is the lowest tax rate for the taxation year for which the amount is determined under subsection (13),

“VV” is the lowest tax rate for the taxation year immediately prior to the taxation year for which the amount is determined under subsection (13), and

“WW” is the amount that would be the individual’s unused tuition and education tax credits at the end of the prior taxation year if this subsection did not apply in determining the amount under subsection (13) for the taxation year.

2001, c. 8, s. 37 (7); 2004, c. 16, s. 3.

Tuition credit

(17)  The amount of an individual’s tuition credit for a taxation year is the amount that would be determined for the year under section 118.5 of the Federal Act if the appropriate percentage referred to in that section were the lowest tax rate. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Education credit

(18)  The amount of an individual’s education credit for a year ending after December 31, 1999 is the amount calculated using the formula,

A × (XX + YY)

in which,

“A” is the lowest tax rate for the year,

“XX” is the amount calculated by multiplying the number of months in the year during which the individual is enrolled in a qualifying education program as a full-time student at a designated educational institution for the purposes of section 118.6 of the Federal Act and,

(a) $200 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $400 for a taxation year ending after December 31, 2000, and

“YY” is the amount calculated by multiplying the number of months in the year, other than months described in the definition of “XX”, in which the individual is enrolled at a designated educational institution in a specified educational program, for the purposes of section 118.6 of the Federal Act, that provides that each student in the program spend not less than 12 hours in the month on courses in the program and,

(a) $60 for a taxation year ending after December 31, 1999 and before January 1, 2001, or

(b) $120 for a taxation year ending after December 31, 2000.

2001, c. 8, s. 37 (8); 2004, c. 16, s. 3.

Tuition credit, etc., transferred

(19)  Subject to subsection (22), the amount of the credit, if any, an individual is entitled to deduct under paragraph 15 of subsection 4 (3.1) is the amount calculated using the formula,

T – U

in which,

“T” is,

(a) for a taxation year ending after December 31, 1999 and before January 1, 2001, the lesser of $319 and the sum of the tuition credit and education credit the person transferring the credits would be entitled to deduct for the taxation year, and

(b) for a taxation year ending after December 31, 2000, the lesser of,

(i) $5,000 multiplied by the lowest tax rate for the taxation year, or

(ii) the sum of the tuition credit and education credit the person transferring the credits would be entitled to deduct for the year, and

“U” is the amount of tax that would be payable under paragraph 1, 2 or 3 of subsection 4 (3) by the person transferring the credits for the year, less the credits the person would be entitled to deduct for the year under paragraphs 1 to 12 of subsection 4 (3.1).

2000, c. 42, s. 51; 2001, c. 8, s. 37 (9); 2004, c. 16, s. 3.

Credits transferred

(20)  Subject to subsection (22), the amount of an individual’s deduction under paragraph 16 of subsection 4 (3.1) for a taxation year in respect of amounts transferred to the individual by his or her spouse or common-law partner is the amount calculated using the formula,

(V – W) + X – Y

in which,

“V” is,

(a) for a taxation year ending after December 31, 1999 and before January 1, 2001, the lesser of $319 and the sum of the tuition credit and education credit the person transferring the credits would be entitled to deduct for the taxation year, and

(b) for a taxation year ending after December 31, 2000, the lesser of,

(i) $5,000 multiplied by the lowest tax rate for the taxation year, or

(ii) the sum of the tuition credit and education credit the person transferring the credits would be entitled to deduct for the year,

“W” is the amount of tax that would be payable under paragraph 1, 2 or 3 of subsection 4 (3) by the person transferring the credits for the year, less the credits the person would be entitled to deduct for the year under paragraphs 1 to 12 of subsection 4 (3.1),

“X” is the total of the credits under paragraphs 7, 9, 10 or 11 of subsection 4 (3.1) the person transferring the credits would be entitled to deduct for the year, and

“Y” is the amount, if any, calculated under subsection (21).

2000, c. 42, s. 51; 2001, c. 8, s. 37 (10); 2004, c. 16, s. 3.

Same

(21)  For the purposes of subsection (20), the amount is calculated using the formula,

Z – B

in which,

“Z” is the amount that would be the tax payable for the year under paragraph 1, 2 or 3 of subsection 4 (3) by the person transferring the credits, less the credits the person would be entitled to deduct for the year under paragraphs 3, 8 and 12 of subsection 4 (3.1), and

“B” is the lesser of,

(a) the total of the tuition and education credits the person transferring the credits would be entitled to deduct for the year, and

(b) the amount that would be the tax payable for the year under paragraph 1, 2 or 3 of subsection 4 (3) by the person transferring the credits, less the credits the person would be entitled to deduct for the year under paragraphs 1 to 12 of subsection 4 (3.1).

2000, c. 42, s. 51; 2004, c. 16, s. 3.

Maximum transferred

(22)  For the purposes of subsections (19) and (20), the person transferring the credits shall designate the amounts of tuition credit and education credit to be transferred for the year and the maximum amount that may be deducted under paragraphs 15 and 16 of subsection 4 (3.1) by an individual for a year in respect of these transferred credits must not exceed those amounts. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

Medical expense credit

(23)  The amount of an individual’s medical expense credit for a taxation year ending before January 1, 2004 is the amount calculated using the formula,

[A × (B – C)] – (A/D × E × F)

in which,

“A” is the lowest tax rate for the year,

“B” is the total of the individual’s medical expenses that are included in calculating the amount of his or her medical expense credit for the year under subsection 118.2 (1) of the Federal Act,

“C” is the lesser of $1,637 and 3 per cent of the individual’s income for the year,

“D” is the lowest percentage referred to in subsection 117 (2) of the Federal Act that applies in determining the amount of tax payable under Part I of that Act for the year,

“E” is the percentage used in determining the amount of “D” for the year in the formula in subsection 118.2 (1) of the Federal Act, and

“F” is the total of all amounts each of which is the amount, if any, by which the income for the year of a person, other than the individual and the individual’s spouse or common-law partner, in respect of whom an amount is included in computing the individual’s medical expense credit for the year, exceeds $7,231.

2000, c. 42, s. 51; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 1 (1).

Medical expense credit, 2004 and subsequent years

(23.1)  The amount of an individual’s medical expense credit for a taxation year ending after December 31, 2003 is the amount calculated using the formula,

A × [(B – C) + D]

in which,

“A” is the lowest tax rate for the year,

“B” is the total of the individual’s medical expenses in respect of the individual, the individual’s spouse, the individual’s common-law partner or a child of the individual who has not attained the age of 18 years before the end of the taxation year that are included in determining the individual’s medical expense credit for the year under subsection 118.2 (1) of the Federal Act,

“C” is the lesser of $1,821 and 3 per cent of the individual’s income for the year, and

“D” is the total of all amounts each of which,

(a) is in respect of a dependant of the individual, within the meaning assigned by subsection 118 (6) of the Federal Act, other than a child of the individual who has not attained the age of 18 years before the end of the taxation year, and

(b) is, in respect of the dependant, the lesser of the amount set out in subsection (23.2) and the amount that would be determined by the formula “E – F” in subsection 118.2 (1) of the Federal Act, if the dollar amount set out in the description of “C” in this subsection were substituted for the dollar amount set out in the description of “F” in subsection 118.2 (1) of the Federal Act.

2004, c. 31. Sched. 19, s. 1 (2); 2015, c. 38, Sched. 10, s. 1 (1).

Amount for purposes of subs. (23.1)

(23.2)  For the purposes of subsection (23.1), the amount is,

(a) $5,000 if the taxation year is 2004; or

(b) $10,000 if the taxation year ends after 2004. 2015, c. 38, Sched. 10, s. 1 (2).

Credit, charitable gifts, etc.

(24)  The amount of an individual’s credit for charitable and other gifts for a taxation year is the amount calculated using the formula,

(A × G) + [H × (J – G)]

in which,

“A” is the lowest tax rate for the year,

“G” is the lesser of $200 and that part of the individual’s total gifts for the year under section 118.1 of the Federal Act that was used to determine the amount deducted by the individual for the year under subsection 118.1 (3) of that Act,

“H” is the highest tax rate for the year, and

“J” is that part of the individual’s total gifts for the year under section 118.1 of the Federal Act that was used to determine the amount deducted by the individual for the year under subsection 118.1 (3) of that Act.

2000, c. 42, s. 51; 2004, c. 16, s. 3; 2008, c. 7, Sched. I, s. 2.

Credit, student loan interest

(25)  The amount of an individual’s credit for a taxation year for interest on a student loan is the amount that would be determined in respect of the individual for the year under section 118.62 of the Federal Act if the appropriate percentage referred to in that section were the lowest tax rate. 2000, c. 42, s. 51; 2004, c. 16, s. 3.

(26)-(29)  Repealed: 2006, c. 33, Sched. N, s. 2 (2).

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 51](http://www.ontario.ca/laws/statute/S00042" \l "s51) - 1/01/2000

[2001, c. 8, s. 37 (1-4, 7-10)](http://www.ontario.ca/laws/statute/S01008" \l "s37s1) - 1/01/2001; [2001, c. 8, s. 37 (5, 6)](http://www.ontario.ca/laws/statute/S01008" \l "s37s5) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s1s1) - 31/03/2006

[2005, c. 31, Sched. 11, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s3s1) - no effect - see [2015, c. 38, Sched. 10, s. 3](http://www.ontario.ca/laws/statute/S15038" \l "sched10s3) - 10/12/2015; [2005, c. 31, Sched. 11, s. 3 (3)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s3s3) - no effect - see [2006, c. 33, Sched. N, s. 2 (2)](http://www.ontario.ca/laws/statute/S06033" \l "schedns2s2) - 20/12/2006

[2006, c. 33, Sched. N, s. 2 (1, 2)](http://www.ontario.ca/laws/statute/S06033" \l "schedns2s1) - 20/12/2006

[2008, c. 7, Sched. I, s. 2 (1, 2)](http://www.ontario.ca/laws/statute/S08007" \l "schedis2s1) - 14/05/2008

[2015, c. 38, Sched. 10, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S15038" \l "sched10s1s1) - 31/03/2006

[2021, c. 4, Sched. 11, s. 18](http://www.ontario.ca/laws/statute/S21004" \l "sched11s18) - 19/04/2021

Annual adjustment

**4.0.2**(1)  Subject to subsection (6), each amount expressed in dollars under the following provisions shall be adjusted in accordance with this section for each taxation year ending after December 31, 2000:

1. Subsections 3 (1), 4 (3), 4.0.1 (2) to (6), (8), (10), (11), (11.1), (18), (19), (20), (23), (23.1), (23.2) and 7 (2.4) and (2.5).

1.1 Clause (a) of the definition of “II” in subsection 4.0.1 (10.1).

2. Paragraphs 118.2 (2) (b.1), (l.5) and (l.7) of the Federal Act, as they apply in determining the amount of an individual’s medical expense credit deductible under paragraph 17 of subsection 4 (3.1). 2004, c. 31, Sched. 19, s. 2 (1, 2); 2006, c. 33, Sched. N, s. 3 (1); 2015, c. 38, Sched. 10, s. 2 (1).

Calculation of adjusted amount

(2)  Each amount referred to in subsection (1) shall be adjusted to the amount determined using the formula,

A + [A × (B/C – 1)]

in which,

“A” is the amount that would have been used for the previous taxation year if it had not been rounded to a whole dollar,

“B” is the Consumer Price Index for the 12-month period that ended on September 30 of the previous year, and

“C” is the Consumer Price Index for the 12-month period immediately preceding the 12-month period mentioned in the description of “B”.

2004, c. 31, Sched. 19, s. 2 (1).

Same

(3)  For the purposes of subsection (2), the amount of “(B/C – 1)” shall be adjusted each year in such manner as may be prescribed and rounded to the nearest thousandth or, where the result obtained is equidistant, to the higher thousandth. 2004, c. 31, Sched. 19, s. 2 (1).

Rounding

(4)  Where an amount as adjusted under this section is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, where it is equidistant, to the higher dollar. 2004, c. 31, Sched. 19, s. 2 (1).

Consumer Price Index

(5)  In this section, the Consumer Price Index for any 12-month period is the result arrived at by,

(a) aggregating the Consumer Price Index for Ontario as published by Statistics Canada under the authority of the Statistics Act (Canada), adjusted in such manner as is prescribed, for each month in that period;

(b) dividing the aggregate obtained under clause (a) by 12; and

(c) rounding the result obtained under clause (b) to the nearest one-thousandth or, where the result obtained is equidistant from two consecutive thousandths, to the higher thousandth. 2004, c. 31, Sched. 19, s. 2 (1).

Exceptions

(6)  The following amounts shall not be adjusted under this section:

1. The dollar amounts referred to in subsections 4.0.1 (5), (6), (11.1) and (18), as those subsections apply for a taxation year ending after December 31, 2000 and before January 1, 2002.

2. The dollar amounts referred to in a paragraph of subsection 3 (1) that are applicable for a taxation year ending before January 1, 2005.

3. The dollar amounts referred to in subsections 7 (2.4) and (2.5) that are applicable for a taxation year ending before January 1, 2005.

4. The dollar amounts referred to in subsection 4.0.1 (23.1) that apply for a taxation year ending before January 1, 2005 and the dollar amounts referred to in subsection 4.0.1 (23.2) that apply for a taxation year ending before January 1, 2006.

5. The dollar amount referred to in clause (a) of the definition of “II” in subsection 4.0.1 (10.1) that applies for a taxation year ending before January 1, 2006. 2004, c. 31, Sched. 19, s. 2 (1, 3); 2006, c. 33, Sched. N, s. 3 (2); 2015, c. 38, Sched. 10, s. 2 (2).

Regulations

(7)  The Lieutenant Governor in Council may make regulations prescribing rules governing the adjustment of dollar amounts in provisions of this Act not listed in subsection (1) or in provisions of the Federal Act that apply in determining amounts for the purposes of this Act. 2004, c. 31, Sched. 19, s. 2 (1).

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 52](http://www.ontario.ca/laws/statute/S00042" \l "s52) - 21/12/2000

[2001, c. 8, s. 38 (1-3)](http://www.ontario.ca/laws/statute/S01008" \l "s38s1) - 1/01/2001

[2003, c. 7, s. 11](http://www.ontario.ca/laws/statute/S03007" \l "s11) - 1/01/2004

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 2 (1)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s2s1) - 1/01/2002; [2004, c. 31, Sched. 19, s. 2 (2, 3)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s2s2) - 31/03/2006

[2005, c. 31, Sched. 11, s. 4 (1, 3)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s4s1) - no effect - see [2015, c. 38, Sched. 10, s. 3](http://www.ontario.ca/laws/statute/S15038" \l "sched10s3) - 10/12/2015; [2005, c. 31, Sched. 11, s. 4 (2)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s4s2) - no effect - see [2006, c. 33, Sched. N, s. 3 (1)](http://www.ontario.ca/laws/statute/S06033" \l "schedns3s1) - 1/01/2005; [2005, c. 31, Sched. 11, s. 4 (4)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s4s4) - no effect - see [2006, c. 33, Sched. N, s. 3 (2)](http://www.ontario.ca/laws/statute/S06033" \l "schedns3s2) - 1/01/2006

[2006, c. 33, Sched. N, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S06033" \l "schedns3s1) - 20/12/2006

[2015, c. 38, Sched. 10, s. 2 (1, 2)](http://www.ontario.ca/laws/statute/S15038" \l "sched10s2s1) - 31/03/2006

Qualifying environmental trust

**4.1**The amount of tax payable under section 2.1 by a qualifying environmental trust for a taxation year is equal to the product obtained by multiplying the amount of the trust’s income for the taxation year that is subject to tax under Part XII.4 of the Federal Act by the percentage that would be the specified basic rate of a corporation for the taxation year as defined in subsection 38 (2) of the Corporations Tax Act. 2004, c. 31, Sched. 19, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 10, s. 14](http://www.ontario.ca/laws/statute/S00010" \l "s14) - 2/05/2000

[2001, c. 23, s. 129 (1, 2)](http://www.ontario.ca/laws/statute/S01023" \l "s129s1) - 1/10/2001

[2002, c. 22, s. 106](http://www.ontario.ca/laws/statute/S02022" \l "s106) - 9/12/2002

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 3](http://www.ontario.ca/laws/statute/S04031" \l "sched19s3) - 16/12/2004

Determination of income

**4.2**  Despite any other provision of this Act, if section 5.1 or 5.2 applies to an individual for a taxation year, the amount of tax payable by the individual under this Act for the year shall be determined on the basis that,

(a) the individual’s income for the taxation year is the amount determined after the application of section 5.1 or 5.2, as the case may be; and

(b) the individual’s tax payable under the Federal Act is the amount that would be determined under the Federal Act if the individual’s income for the year as determined under clause (a) were the individual’s income for the year for the purposes of the Federal Act. 1997, c. 43, Sched. B, s. 1 (1, 3); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. B, s. 1 (1) - 20/12/1996; 1997, c. 43, Sched. B, s. 1 (3) - 18/12/1997

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

CPP, QPP adjustments

**4.3**  (1)  This section applies if an individual who is resident in Ontario on the last day of a taxation year properly excludes an amount from income for the taxation year under subsection 56 (8) of the Federal Act by reason that it relates to a prior taxation year. 2000, c. 10, s. 15; 2004, c. 16, s. 3.

Same

(2)  There shall be added to the amount of tax payable by the individual for the taxation year the amount calculated using the formula,

A – B

in which,

“A” is the amount of tax that would have been payable by the individual under section 4 for the prior taxation year if the excluded amount relating to the prior year had been included in computing the individual’s income for the prior year, and

“B” is the amount of tax payable by the individual under section 4 for the prior year.

2000, c. 10, s. 15; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 10, s. 15](http://www.ontario.ca/laws/statute/S00010" \l "s15) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Minimum tax

**4.4**  (1)  This section applies if the tax payable by an individual under Part I of the Federal Act for a taxation year is determined under section 127.5 of that Act. 2000, c. 10, s. 15; 2004, c. 16, s. 3.

Same

(2)  There shall be added to the amount of tax payable by the individual for the taxation year the amount calculated using the formula,

(M – T) × R × F

in which,

“F” is the individual’s Ontario allocation factor for the year as defined in section 4,

“M” is the amount (if any) by which the individual’s minimum amount for the year as determined under section 127.51 of the Federal Act exceeds the amount of the individual’s special foreign tax credit for the year as determined under subsection 127.54 (2) of the Federal Act,

“R” is the percentage calculated by dividing the lowest tax rate for the taxation year by the percentage in paragraph 117 (2) (a) of the Federal Act, and

“T” is the amount that, but for section 120 of the Federal Act, would be determined under Division E of Part I of the Federal Act to be the individual’s tax payable for the taxation year.

2000, c. 10, s. 15; 2001, c. 8, s. 39; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 10, s. 15](http://www.ontario.ca/laws/statute/S00010" \l "s15) - 1/01/2000

[2001, c. 8, s. 39](http://www.ontario.ca/laws/statute/S01008" \l "s39) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Application of s. 40, ITAR

**4.5**  (1)  This section applies if an individual who resides in Ontario on the last day of a taxation year ending after December 31, 1999 receives in the taxation year a payment described in paragraph 40 (1) (a), (b) or (c) of the Income Tax Application Rules, 1971 (Canada) and is liable to pay an amount as tax for the taxation year under section 40 of the Income Tax Application Rules, 1971 (Canada) in respect of the payment. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Additional tax amount

(2)  There must be added to the amount of tax otherwise payable by the individual for the taxation year the amount calculated using the formula,

A × B/C

in which,

“A” is the total of all amounts each of which is a payment described in paragraph 40 (1) (a), (b) or (c) of the Income Tax Application Rules, 1971 (Canada) received by the individual in the taxation year, as determined for the purposes of section 40 of the Income Tax Application Rules, 1971 (Canada),

“B” is the total of all amounts each of which is the amount of tax otherwise payable by the individual for one of the three previous taxation years,

(a) under section 4 before making a deduction under subsection 4 (6) or section 8, if the previous taxation year ended before January 1, 2000,

(b) under section 4 before making a deduction under subsection 4 (3.4), (3.5), (4), (4.1) or (6) or under section 8, if the previous taxation year ended after December 31, 1999, and

(c) under the laws of a province other than Ontario, if the individual is subject to tax in a province other than Ontario for the previous taxation year, calculated in a manner comparable to the manner of calculating the amount described in clause (a) if the previous taxation year ended before January 1, 2000 or in clause (b) if the previous taxation year ended after December 31, 1999, and

“C” is the total of the individual’s incomes for those three previous years.

2000, c. 42, s. 53; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 53](http://www.ontario.ca/laws/statute/S00042" \l "s53) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Lump-sum payments

**4.6**  (1)  This section applies to an individual for a particular taxation year ending after December 31, 1999 if the individual is resident in Ontario on the last day of the year and properly deducts an amount under subsection 110.2 (2) of the Federal Act in computing his or her taxable income for the year. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Additional tax amount

(2)  There must be added to the amount of tax otherwise payable by the individual for the particular taxation year the total of all amounts each of which is the amount, if any, by which “A” exceeds “B” where,

“A” is the amount of the individual’s notional tax payable for an eligible taxation year to which a specified portion of a qualifying amount received by the individual relates and in respect of which an amount is deducted under section 110.2 of the Federal Act in computing his or her taxable income for the particular taxation year, and

“B” is the individual’s tax payable under section 4 for the eligible taxation year, calculated before the additional taxes, if any, payable under this section and sections 4.3, 4.4 and 4.6 to 4.8. 2000, c. 42, s. 53; 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 5 (1).

Notional tax

(3)  For the purposes of this section, the amount of an individual’s notional tax payable for an eligible taxation year is the amount calculated using the formula,

C + D

in which,

“C” is the amount, if any, calculated under subsection (4), and

“D” is an amount, subject to subsection (5), that would be equal to the amount that would be calculated as interest payable on the amount determined as “C” if the interest were calculated,

(a) for the period that began on May 1 of the year following the eligible taxation year and ended immediately before the particular taxation year, and

(b) at the prescribed rate that is applicable for the purposes of subsection 164 (3) of the Federal Act with respect to that period.

2000, c. 42, s. 53; 2004, c. 16, s. 3.

Same

(4)  The variable “C” in subsection (3) is the amount, if any, by which “E” exceeds “F” where,

“E” is the amount that would be the individual’s tax payable under section 4 for the eligible taxation year,

(a) if the tax were calculated without reference to sections 4.3, 4.4 and 4.6 to 4.8, and

(b) if the total of all amounts, each of which is the specified portion, in relation to the eligible taxation year, of a qualifying amount received by the individual before the end of the taxation year, were added in computing the individual’s taxable income for the eligible taxation year, and

“F” is the total of all amounts each of which is an amount, in respect of a qualifying amount received by the individual before the taxation year, that was included because of clause (b) in the definition of “E” in computing the individual’s notional tax payable for the eligible taxation year. 2000, c. 42, s. 53; 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 5 (2).

Exception

(5)  For the purposes of subsection (3), the amount of “D” is nil unless the eligible taxation year ended before the taxation year preceding the particular taxation year. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Interpretation

(6)  The definitions of “eligible taxation year”, “qualifying amount” and “specified portion” in subsection 110.2 (1) of the Federal Act apply for the purposes of this section. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 53](http://www.ontario.ca/laws/statute/S00042" \l "s53) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

[2005, c. 31, Sched. 11, s. 5 (1)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s5s1) - 1/01/2000

Calculation, prior years

**4.7**  If an individual resides in Ontario on the last day of a taxation year and is liable to pay an amount for the taxation year under section 4.3, 4.5 or 4.6, the amount of the payment must be determined as if the individual were resident in Ontario on the last day of each prior taxation year that is relevant to the determination of the amount payable under section 4.3, 4.5 or 4.6. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 53](http://www.ontario.ca/laws/statute/S00042" \l "s53) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Tax on split income

**4.8**  (1)  This section applies if an individual who is resident in Ontario on the last day of a taxation year ending after December 31, 1999is a specified individual in relation to the taxation year and the individual is liable to pay an amount as tax under subsection 120.4 (2) of the Federal Act for the taxation year. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Additional tax

(2)  There must be added to the amount of tax payable by the individual for the taxation year the amount determined by multiplying the highest tax rate for the taxation year by the individual’s split income for the taxation year. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Maximum tax amount

(3)  Despite any other provision of this Act, the tax payable for a taxation year by an individual who is a specified individual in relation to the taxation year must not be less than the amount by which “A” exceeds “B” where,

“A” is the amount added under subsection (2) to the individual’s tax payable for the taxation year, and

“B” is the total of all amounts each of which is an amount,

(a) that may be deducted under subsection 4 (3.4) or (6) in computing the individual’s tax payable for the taxation year, and

(b) that can reasonably be considered to be in respect of an amount included in computing the individual’s split income for the taxation year. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

Interpretation

(4)  The definitions of “specified individual” and “split income” in subsection 120.4 (1) of the Federal Act apply for the purposes of this section. 2000, c. 42, s. 53; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 53](http://www.ontario.ca/laws/statute/S00042" \l "s53) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Division C — Special Cases

tax avoidance

**5** Repealed: 1999, c. 9, s. 118.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 118 - 14/12/1999

Anti-avoidance, related party transfers

Definitions

**5.1**  (1)  In this section,

“taxpayer” means an individual or a partnership whose members include one or more individuals; (“contribuable”)

“transferee” means, in respect of a taxation year,

(a) a corporation that has a permanent establishment in one or more provinces other than Ontario, or

(b) a partnership, one or more of whose members is a corporation described in clause (a). (“bénéficiaire du transfert”) 1997, c. 43, Sched. B, s. 2 (1); 2004, c. 16, s. 3.

Inter-provincial anti-avoidance

(2)  Despite any other provision of this Act except subsection (4), if a taxpayer disposes of property to a transferee, and clauses (3) (a) to (d) apply in respect of the disposition, the amount of the taxpayer’s deemed proceeds of disposition of the property is the total of,

(a) the amount that is deemed to be the taxpayer’s proceeds of disposition of the property as determined under the Federal Act; and

(b) the total of all amounts, each of which is in respect of a province in which the transferee has a permanent establishment, determined by multiplying,

(i) the amount by which the cost amount of the property to the transferee under the laws of a province other than Ontario exceeds the amount referred to in clause (a),

by,

(ii) the percentage of the transferee’s taxable income, for the taxation year in which the transferee disposed of the property,

(A) if the transferee is a corporation, that is deemed to be earned in that other province under regulations made under the Federal Act, or that would be deemed to be earned in that other province if the transferee had had taxable income for that year, or

(B) if the transferee is a partnership, that the partnership would be deemed to have earned in that other province under regulations made under the Federal Act if the partnership were a corporation, its taxation year were its fiscal period, it had had income for the fiscal period and its taxable income for the year were its income for that fiscal period. 1997, c. 43, Sched. B, s. 2 (1); 2004, c. 16, s. 3.

Application of subs. (2)

(3)  Subsection (2) applies in respect of a disposition of property if,

(a) the transferee does not deal at arm’s length with the taxpayer at or immediately after the time of the disposition;

(b) the amount of the taxpayer’s proceeds of disposition of the property, as determined without reference to this section, would be deemed to be an amount that is less than the transferee’s cost amount of the property immediately after the disposition, as determined under the laws of a province other than Ontario in which the transferee or, if the transferee is a partnership, one or more of its members, has a permanent establishment;

(c) the property, or other property the fair market value of which is derived primarily from the property or other property acquired by any person other than the taxpayer in substitution for the property, is subsequently disposed of to another person or partnership; and

(d) it is reasonable to believe that a purpose of the disposition of the property to the transferee prior to the subsequent disposition of the property by the transferee to another person was to reduce the total amount of income tax payable to one or more provinces in respect of the two dispositions to an amount that would be less than the amount of provincial income tax that would have been payable if the taxpayer’s proceeds of disposition of the property had equalled the transferee’s proceeds of disposition of the property on the subsequent disposition. 1997, c. 43, Sched. B, s. 2 (1); 2004, c. 16, s. 3.

Exceptions

(4)  Subsection (2) does not apply in respect of a disposition if,

(a) the cost amount of the property to the transferee is greater than the taxpayer’s proceeds of disposition of the property, as otherwise determined, by reason only of the operation of paragraph 98 (3) (b) of the Federal Act or a comparable provision of the laws of another province in which the transferee, or if the transferee is a partnership, one or more of its members, has a permanent establishment; or

(b) the property is prescribed property or the prescribed rules or conditions have been satisfied. 1997, c. 43, Sched. B, s. 2 (1); 2004, c. 16, s. 3.

Anti-avoidance of provincial tax

(5)  If a trust, other than a mutual fund trust, is resident in a province other than Ontario and designates or elects an amount under the Federal Act in respect of a beneficiary under the trust who is an individual resident in Ontario, the trust shall be deemed not to have designated or elected an amount under that Act for the purposes of this Act unless the designated or elected amount in each province in which the trust is resident is the same as the amount designated or elected for the purposes of the Federal Act. 1997, c. 43, Sched. B, s. 2 (3); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. B, s. 2 (1) - 20/12/1996; 1997, c. 43, Sched. B, s. 2 (3) - 26/11/1997

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Anti-avoidance

**5.2**  For the purposes of this Act, sections 245 and 246 of the Federal Act apply, with necessary modifications, to individuals. 1997, c. 43, Sched. B, s. 3 (1); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. B, s. 3 (1) - 18/12/1997

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

exemptions

Tax exemption

**6** An individual who is exempt from tax under Part I of the Federal Act in respect of a period of time, by virtue of subsection 149 (1) of the Federal Act, shall be exempt for the same period from tax payable under this Act, other than tax payable under section 2.1. 1996, c. 1, Sched. C, s. 6; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1996, c. 1, Sched. C, s. 6 - 23/02/1994

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Ontario tax reduction program

**7** (1)  No tax is payable under this Act by an individual for a taxation year if the amount of tax that would otherwise be payable by the individual for the year does not exceed the individual’s personal amount as determined,

(a) in the prescribed manner, if the taxation year commences before January 1, 2001; or

(b) under this section, if the taxation year ends after December 31, 2000. 2001, c. 23, s. 130 (1); 2004, c. 16, s. 3.

Tax reduction

(2)  If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual’s personal amount for the taxation year, the tax payable under this Act in respect of 1997 and subsequent taxation years may be reduced by the amount, if any, by which twice the individual’s personal amount for the taxation year exceeds the amount of tax otherwise payable by the individual under this Act for the taxation year. 1996, c. 18, s. 3; 2004, c. 16, s. 3.

Who includes amount in respect of qualified dependant, etc.

(2.1)  If an individual resides with a cohabiting spouse or common-law partner on the 31st day of December in the taxation year, the individual may include an amount in his or her personal amount for the taxation year with respect to a person who is,

(a) a qualified dependant at any time in the taxation year in respect of whom the individual or the cohabiting spouse or common-law partner is an eligible individual; or

(b) infirm or disabled,

only if the individual’s income for the taxation year exceeds the income of the cohabiting spouse or common-law partner for the taxation year. 1993, c. 29, s. 5 (4); 2001, c. 23, s. 130 (2); 2004, c. 16, s. 3.

Personal amount

(2.2)  An individual’s personal amount for a taxation year ending after December 31, 2000 is the amount calculated using the formula:

A + B + C

in which,

“A” is the amount of the basic reduction for the taxation year,

“B” is the sum of all amounts each of which is the eligible amount for the taxation year for a child who is a dependant of the individual and who is under 18 years of age at any time in the taxation year, and

“C” is the sum of all amounts each of which is the eligible amount for the taxation year in respect of a dependant of the individual who is infirm or disabled.

2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Amounts for 2001

(2.3)  For the 2001 taxation year,

(a) the amount of the basic reduction is $156; and

(b) the eligible amount is $317 for,

(i) each child who is a dependant of an individual and who is under 18 years of age at any time in the taxation year, and

(ii) each infirm or disabled dependant of an individual. 2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Basic reduction, 2002 and subsequent years

(2.4)  The basic reduction for a taxation year, commencing with 2002, is the following amount:

1. For the 2002 taxation year, $161.

2. For the 2003 taxation year, $181.

3. For the 2004 taxation year, $186.

4. For a taxation year after the 2004 taxation year, the amount determined by adjusting the basic reduction for the previous taxation year in accordance with section 4.0.2. 2004, c. 31, Sched. 19, s. 4 (1).

Eligible amount, 2002 and subsequent taxation years

(2.5)  The eligible amount for a dependant described in subsection (2.2) for a taxation year, commencing with the 2002 taxation year, is the following amount:

1. For the 2002 taxation year, $328.

2. For the 2003 taxation year, $334.

3. For the 2004 taxation year, $343.

4. For a taxation year after the 2004 taxation year, the amount determined by adjusting the eligible amount for the dependant for the previous taxation year in accordance with section 4.0.2. 2004, c. 31, Sched. 19, s. 4 (2).

Rounding

(2.6)  If the basic reduction for a taxation year calculated under subsection (2.4) or the eligible amount for the year calculated under subsection (2.5) is not a whole dollar amount, it must be rounded to the nearest whole dollar or, if it is 50 cents less than a whole dollar amount, it must be rounded up to that whole dollar amount. 2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Rules, dependants

(2.7)  An individual may include an amount in respect of a dependant in the calculation of “B” for a taxation year in subsection (2.2) only if,

(a) the dependant was a qualified dependant at any time in the taxation year; and

(b) the individual or the individual’s cohabiting spouse or common-law partner, if any, with whom the individual resided on December 31 of the taxation year was the eligible individual in respect of the dependant,

(i) immediately before the dependant ceased to be a qualified dependant of the eligible individual, and the dependant did not become the qualified dependant of any other eligible individual during the taxation year, or

(ii) at the end of the taxation year, in any other case. 2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Rules, infirm or disabled dependants

(2.8)  Subject to subsection (2.9), an individual may include an amount in respect of an infirm or disabled dependant in the calculation of “C” for a taxation year in subsection (2.2) only if,

(a) no other person has included an amount in respect of the dependant in determining the amount included in “B” or “C” in subsection (2.2) in the calculation of his or her personal amount for the taxation year;

(b) the individual or the individual’s cohabiting spouse or common-law partner, if any, with whom the individual resided on December 31 of the taxation year is deducting an amount under subsection 118.3 (2) or paragraph 118 (1) (b) or (d) of the Federal Act for the taxation year in respect of the dependant; and

(c) the dependant, if he or she is the individual’s cohabiting spouse or common-law partner at any time in the taxation year, is entitled to a deduction under subsection 118.3 (1) of the Federal Act for the taxation year and is transferring some or all of the deduction to the individual under section 118.8 of the Federal Act. 2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Rules, non-cohabiting spouses, etc.

(2.9)  If two individuals who are not cohabiting spouses or common-law partners are each entitled to deduct and are deducting an amount under subsection 118.3 (2) or paragraph 118 (1) (d) of the Federal Act for the taxation year in respect of the same dependant who is 19 years of age or older, the following rules apply:

1. The individual who is deducting more than 50 per cent of the amount deductible under subsection 118.3 (2) or paragraph 118 (1) (d) of the Federal Act in respect of the dependant may include an amount in respect of the dependant in the calculation of “C” in subsection (2.2) for the taxation year.

2. If each individual is deducting 50 per cent of the amount deductible under subsection 118.3 (2) or paragraph 118 (1) (d) of the Federal Act in respect of the dependant, only the individual with the lower income may include an amount in respect of the dependant in the calculation of “C” in subsection (2.2) for the taxation year. 2001, c. 23, s. 130 (3); 2004, c. 16, s. 3.

Definitions

(3)  For the purposes of this section,

“income” of an individual for a taxation year means the amount equal to the sum of the individual’s taxable income for the taxation year and all amounts deducted by the individual under Division C of Part I of the Federal Act in determining such taxable income, less any amounts added under Division C of Part I of the Federal Act in determining such taxable income; (“revenu”)

“tax otherwise payable” for a taxation year means the amount of tax payable under this Act for the taxation year, other than the Ontario Health Premium, before any deduction permitted by subsection 4 (6) or under section 8 or this section. (“impôt payable par ailleurs”) 1993, c. 29, s. 5 (3); 2004, c. 16, s. 3; 2004, c. 29, s. 6; 2004, c. 31, Sched. 19, s. 4 (3-5).

Federal definitions

(3.1)  For the purposes of this section and section 8,

“cohabiting spouse or common-law partner”, “eligible individual” and “qualified dependant” have the meanings assigned by section 122.6 of the Federal Act. 2001, c. 23, s. 130 (4); 2004, c. 16, s. 3.

Non-application of section

(4)  This section does not apply to an individual for a taxation year if,

(a) the individual’s tax payable under Part I of the Federal Act for the taxation year is determined under Division E.1 of that Part;

(b) the individual is not resident in Ontario on the 31st day of December in the taxation year;

(c) the individual’s primary place of residence which he or she ordinarily occupies and inhabits during the taxation year is not in Ontario; or

(d) the individual is a trust. 1993, c. 29, s. 5 (3); 2001, c. 23, s. 130 (5); 2004, c. 16, s. 3.

(5)  Repealed: 2001, c. 23, s. 130 (6).

Non-application

(6)  This section does not apply with respect to a return filed on behalf of an individual by a trustee in bankruptcy under paragraph 128 (2) (e) or (h) of the Federal Act for a taxation year. 1999, c. 9, s. 119; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 5 (3, 4) - 1/01/1993; 1996, c. 18, s. 3 - 1/01/1997; 1999, c. 9, s. 119 - 14/12/1999

[2001, c. 23, s. 130 (1-4)](http://www.ontario.ca/laws/statute/S01023" \l "s130s1) - 1/01/2001; [2001, c. 23, s. 130 (5, 6)](http://www.ontario.ca/laws/statute/S01023" \l "s130s5) - 1/01/2002

[2002, c. 22, s. 107](http://www.ontario.ca/laws/statute/S02022" \l "s107) - 9/12/2002

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 6](http://www.ontario.ca/laws/statute/S04029" \l "s6) - 1/01/2004; [2004, c. 31, Sched. 19, s. 4 (1, 2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s4s1) - 1/01/2005; [2004, c. 31, Sched. 19, s. 4 (3, 5)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s4s3) - 1/01/2004

**7.1**  Repealed: R.S.O. 1990, c. I.2, s. 7.1 (11). (See: 2000, c. 42, s. 54 (7)).

**Section Amendments with date in force (d/m/y)**

R.S.O. 1990, c. I.2, s. 7.1 (11) - 1/01/2002

[2000, c. 42, s. 54 (7)](http://www.ontario.ca/laws/statute/S00042" \l "s54s7) - 1/01/2002

Ontario tax credits

Definitions

**8** (1)  In this section,

“adjusted income” means, in respect of an individual for a taxation year, the individual’s adjusted income as determined for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“revenu rajusté”)

“housing unit” includes,

(a) subject to clauses (b) and (c), any premises that an individual ordinarily occupies and inhabits as the individual’s residence in the taxation year,

but does not include,

(b) premises that are part of a chronic care facility or other similar institution that is prescribed, or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home, or

(c) premises, except any students’ residence that is designated by the Provincial Minister for the taxation year under subsection (8), during such time in a taxation year as,

(i) such premises are exempt from the payment of taxes levied under the Provincial Land Tax Act, 2006, the Local Roads Boards Act or taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or multi-residential property, or

(ii) the owner does not pay a grant equal to the full amount of the taxes described in subclause (i) that would, if such premises were not exempt, be payable or a grant equal to an amount prescribed by the Minister in respect of such premises or class of premises,

except when such excluded premises are occupied and inhabited by an individual of a class prescribed for the purpose of this definition; (“logement”)

“income” of a person for a taxation year means the amount equal to the sum of the person’s taxable income for the taxation year and all amounts deducted by the person under Division C of Part I of the Federal Act in determining such taxable income, less any amounts added under Division C of Part I of the Federal Act in determining such taxable income; (“revenu”)

“individual” means a person, other than,

(a) a corporation,

(b) a trust or estate referred to in subdivision k of Division B of Part I of the Federal Act,

(c) except for the purposes of subsections (8.1), (8.3), (8.4), (9), (15), (15.1), (15.2), (15.3), (15.4), (15.5), (15.6), (16) and (16.1), a person who died in the taxation year or a person who is, on December 31 in the taxation year,

(i) under the age of sixteen years,

(ii) except for the purposes of subsection (4), under the age of nineteen years who was at any time in the taxation year a qualified dependant and who at the end of the taxation year is residing in the principal residence of a person who received, or whose cohabiting spouse or common-law partner received, an amount during the taxation year in respect of the person under section 122.6 of the Federal Act,

(iii) a person referred to in paragraph 149 (1) (a) or (b) of the Federal Act,

(iv) a person, or a member of the family of a person, who is on active military service as a member of the armed forces of a country other than Canada and is not a Canadian citizen, or

(v) a person who, by virtue of an agreement, convention or tax treaty entered into by Canada and another country, is not required to pay tax under the Federal Act with respect to the taxation year, or

(d) a qualifying environmental trust; (“particulier”)

“municipal tax” means,

(a) taxes for municipal or school purposes that are levied in respect of real property in Ontario,

(b) taxes levied for local improvements to real property in Ontario,

(c) taxes levied under the Provincial Land Tax Act, 2006 or the predecessor Act or the Local Roads Boards Act, and

(d) such other taxes or special rates as are prescribed in the regulations; (“impôts municipaux”)

“occupancy cost”, in respect of a taxation year, means,

(a) municipal tax paid in the taxation year in respect of a principal residence of the individual or of a person who is the cohabiting spouse or common-law partner of the individual, to the extent that the principal residence is beneficially owned by them or either of them or is held in trust for the use and occupation of them or either of them as a principal residence, or

(b) 20 per cent of,

(i) municipal tax paid in the taxation year in respect of a principal residence that is not beneficially owned by the individual and the individual’s cohabiting spouse or common-law partner or by either of them or is not held in trust for them or either of them, but only to the extent that the municipal tax is included by the owner of the residence in computing the owner’s taxable income under the Federal Act for the taxation year, and

(ii) rent paid in the taxation year for occupation of a principal residence of the individual, if the rent is paid by or on behalf of the individual or the individual’s cohabiting spouse or common-law partner and is calculated to exclude all payments on account of meals or board; (“coût d’habitation”)

“Ontario home ownership savings plan” means an Ontario home ownership savings plan under the Ontario Home Ownership Savings Plan Act; (“régime d’épargne-logement de l’Ontario”)

“principal residence”, in respect of an individual, means a housing unit in Ontario that was occupied by the individual during the taxation year as his or her primary place of residence and that is designated by the individual in the prescribed manner as the individual’s principal residence for the taxation year; (“résidence principale”)

“qualifying contribution” made by an individual to an Ontario home ownership savings plan means a contribution that is a qualifying contribution under the Ontario Home Ownership Savings Plan Act and in respect of which a receipt in the prescribed form has been issued by the depositary of the plan and has been filed by the individual with the Minister; (“versement admissible”)

“recorded agent” means a person on record with the Chief Electoral Officer as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under the Election Finances Act; (“agent désigné”)

“senior” means an individual who has attained the age of sixty-five years on or before the 31st day of December in the taxation year; (“personne âgée”)

“tax payable” and “tax otherwise payable” mean the amount of tax that would be payable under this Act, other than the Ontario Health Premium, if the tax were calculated without reference to section 120.1 of the Federal Act and without reference to this section and subsections 4 (3.4) and (3.5) of this Act. (“impôt payable”, “impôt payable par ailleurs”) R.S.O. 1990, c. I.2, s. 8 (1); 1992, c. 18, s. 55 (2); 1992, c. 25, s. 3 (1-4); 1993, c. 29, s. 6 (1-3); 1996, c. 1, Sched. C, s. 8 (1); 1996, c. 29, s. 9 (1); 1997, c. 19, s. 9 (1); 1997, c. 43, Sched. B, s. 4 (1, 2); 1998, c. 9, s. 81 (1, 2); 1998, c. 34, s. 69 (1-6); 2000, c. 42, s. 55 (1); 2001, c. 23, s. 131 (1-3); 2002, s. 22, s. 108 (1, 2); 2004, c. 16, s. 3; 2004, c. 29, s. 7; 2004, c. 31, Sched. 19, s. 5 (1, 2); 2005, c. 5, s. 33 (1); 2006, c. 33, Sched. N, s. 4 (1, 2); 2006, c. 33, Sched. Z.3, s. 14; 2007, c. 15, s. 40; 2008, c. 19, Sched. I, s. 1 (1).

(2)  Repealed: 2006, c. 33, Sched. N, s. 4 (3).

Property tax credit, sales tax credit

(3)  Subject to subsection (7), every individual resident in Ontario on the 31st day of December in a taxation year, other than a senior, may deduct from tax otherwise payable by the individual under this Act in respect of the taxation year the amount, if any, not in excess of $1,000, by which the aggregate of the tax credits described in clauses (a) and (b) to which the individual is entitled exceeds the amount, if any, by which 2 per cent of the individual’s adjusted income for the taxation year exceeds $4,000, that is to say,

(a) subject to subsection (5), a property tax credit equal to the sum of,

(i) the lesser of the individual’s occupancy cost for the taxation year and $250, and

(ii) an amount equal to 10 per cent of the individual’s occupancy cost for the taxation year; and

(b) subject to subsection (6), a sales tax credit equal to the aggregate of,

(i) $100 in respect of the individual,

(ii) $100 in respect of any person who is the individual’s cohabiting spouse or common-law partner with whom the individual resides on the 31st day of December in the taxation year,

(iii) $50 in respect of every person who is a qualified dependant at any time in the taxation year in respect of an eligible individual who is the individual or a person who is the individual’s cohabiting spouse or common-law partner with whom the individual resides on the 31st day of December in the taxation year, and

(iv) $50 in respect of every person under the age of nineteen years on the 31st day of December in the taxation year who would be a qualified dependant described in subclause (iii) but for having attained the age of eighteen years. R.S.O. 1990, c. I.2, s. 8 (3); 1992, c. 25, s. 3 (5, 6); 1993, c. 29, s. 6 (5); 2001, c. 23, s. 131 (5); 2004, c. 16, s. 3.

Tax credits for seniors, cohabiting spouse or common-law partner

(3.1)  Subject to subsection (7), every senior who, on December 31 in a taxation year ending after December 31, 2005, is resident in Ontario and resides with a cohabiting spouse or common-law partner may deduct from tax otherwise payable by the senior under this Act in respect of the taxation year the amount, if any, not in excess of $1,125, by which the aggregate of the tax credits described in clauses (a) and (b) to which the senior is entitled exceeds the amount, if any, by which 4 per cent of the senior’s adjusted income for the taxation year exceeds $23,090, that is to say,

(a) a property tax credit equal to the sum of,

(i) the lesser of the senior’s occupancy cost for the taxation year and $625, and

(ii) an amount equal to 10 per cent of the senior’s occupancy cost for the taxation year; and

(b) subject to subsection (6), a sales tax credit equal to the aggregate of,

(i) $100 in respect of the senior,

(ii) $100 in respect of any person who is the senior’s cohabiting spouse or common-law partner with whom the senior resides on December 31 in the taxation year,

(iii) $50 in respect of every person who is a qualified dependant at any time in the taxation year in respect of an eligible individual who is the senior or a person who is the senior’s cohabiting spouse or common-law partner with whom the senior resides on December 31 in the taxation year, and

(iv) $50 in respect of every person under the age of 19 years on December 31 in the taxation year who would be a qualified dependant described in subclause (iii) but for having attained the age of 18 years. 2005, c. 31, Sched. 11, s. 6 (1); 2006, c. 33, Sched. N, s. 4 (4).

2007 income threshold for purposes of subs. (3.1)

(3.1.1)  If the sum of the amounts described in subsection (3.1.2) that are authorized to be paid to a senior and his or her cohabiting spouse or common-law partner for January, April, July and October, 2007 exceeds the sum of those amounts authorized to be paid to them for January, April, July and October, 2006, the Lieutenant Governor in Council may make a regulation,

(a) prescribing an amount determined by reference to the amounts described in subsection (3.1.2) that are authorized to be paid to a senior and his or her cohabiting spouse or common-law partner for January, April, July and October, 2007; and

(b) prescribing that the reference in subsection (3.1) to $23,090 shall be read as a reference to the amount prescribed by the regulation for the 2007 taxation year. 2007, c. 7, Sched. 17, s. 1; 2008, c. 19, Sched. I, s. 1 (2).

Same

(3.1.2)  For the purposes of subsection (3.1.1), the amounts are,

(a) the maximum amount of a pension under the Old Age Security Act (Canada);

(b) the maximum amount of a guaranteed income supplement under Part II of the Old Age Security Act (Canada); and

(c) the maximum amount of a guaranteed annual income increment under the Ontario Guaranteed Annual Income Act. 2007, c. 7, Sched. 17, s. 1.

2008 income threshold for purposes of subs. (3.1)

(3.1.3)  In calculating under subsection (3.1) the amount, if any, that a senior is entitled to deduct under that subsection for his or her 2008 taxation year, $24,300 is to be substituted for $23,090. 2008, c. 19, Sched. I, s. 1 (3).

Tax credits for seniors, no cohabiting spouse or common-law partner

(3.2)  Every senior who, on December 31 in a taxation year ending after December 31, 2004, is resident in Ontario and does not reside with a cohabiting spouse or common-law partner may deduct from tax otherwise payable by the senior under this Act in respect of the taxation year the amount, if any, not in excess of $1,125, by which the aggregate of the tax credits described in clauses (a) and (b) to which the senior is entitled exceeds the amount, if any, by which 4 per cent of the senior’s adjusted income for the taxation year exceeds $22,000, that is to say,

(a) a property tax credit equal to the sum of,

(i) the lesser of the senior’s occupancy cost for the taxation year and $625, and

(ii) an amount equal to 10 per cent of the senior’s occupancy cost for the taxation year; and

(b) subject to subsection (6), a sales tax credit equal to the aggregate of,

(i) $100 in respect of the senior,

(ii) $50 in respect of every person who is a qualified dependant at any time in the taxation year in respect of the senior, and

(iii) $50 in respect of every person under the age of 19 years on December 31 in the taxation year who would be a qualified dependant described in subclause (ii) but for having attained the age of 18 years. 2005, c. 31, Sched. 11, s. 6 (2).

Ontario home ownership savings plan tax credit

(4)  Subject to subsection (7), every individual resident in Ontario on the 31st day of December in a taxation year, whose qualifying adjusted income for the taxation year does not exceed $40,000, may deduct from tax otherwise payable under this Act in respect of the taxation year the amount, if any, equal to the product of,

(a) the aggregate of,

(i) the lesser of $2,000 and the total of all qualifying contributions made by the individual in the taxation year to an Ontario home ownership savings plan of which the individual is the planholder, and

(ii) where the individual has a cohabiting spouse or common-law partner with whom the individual resides on the 31st day of December in the taxation year, the lesser of $2,000 and the total of all qualifying contributions made by the cohabiting spouse or common-law partner in the taxation year to an Ontario home ownership savings plan of which the cohabiting spouse or common-law partner is the planholder; and

(b) where the individual’s qualifying adjusted income for the taxation year,

(i) does not exceed $20,000, 25 per cent, or

(ii) exceeds $20,000 but does not exceed $40,000, the prescribed percentage. R.S.O. 1990, c. I.2, s. 8 (4); 1993, c. 29, s. 6 (7); 2001, c. 23, s. 131 (7); 2004, c. 16, s. 3.

Same

(5)  In determining the amount of a tax credit under subsection (3) for a taxation year, no amount may be claimed by an individual if a person who is a cohabiting spouse or common-law partner of the individual with whom the individual resides at the end of the taxation year is a senior on the last day of the taxation year. 1993, c. 29, s. 6 (8); 2001, c. 23, s. 131 (8); 2004, c. 16, s. 3.

Rules for determining sales tax credits

(6)  In determining the amount of a sales tax credit under clause (3) (b), (3.1) (b) or (3.2) (b) for a taxation year,

(a) no amount in respect of a person shall be included if another individual or senior has included an amount in respect of that person in determining the sales tax credit of that other individual or senior for the taxation year;

(b) no amount may be claimed under subclause (3) (b) (i), (3.1) (b) (i) or (3.2) (b) (i) by an individual or senior in respect of whom another individual or senior has claimed an amount under clause (3) (b) or (3.1) (b);

(c) no amount may be claimed by an individual or senior under subclause (3) (b) (iii) or (iv), (3.1) (b) (iii) or (iv) or (3.2) (b) (ii) or (iii) in respect of an individual who has claimed an amount under subclause (3) (b) (i); and

(d) no amount may be claimed by or in respect of an individual who was, on December 31 in the taxation year, confined to a prison or similar institution and has been so confined for a period of, or periods the aggregate of which in the year was, more than six months. 2005, c. 31, Sched. 11, s. 6 (3).

Who claims tax credits

(7)  If an individual has a cohabiting spouse or common-law partner with whom the individual resides on December 31 in a taxation year, any deduction from tax for the taxation year of an amount that would have been permitted but for this subsection by either of them under any of subsections (3), (3.1) and (4) shall be made by only one of them and shall include all amounts that would otherwise have been deductible from tax by either of them under those subsections. 1998, c. 34, s. 69 (7); 2001, c. 23, s. 131 (9); 2004, c. 16, s. 3.

Property tax credit extension for 1998, certain taxpayers

(7.1)  For the purpose of clause (3) (a) or clause (3.1) (a), as it read before January 1, 2005, the amount of an individual’s 1998 municipal tax that is due in 1999 and paid by the due date may be used to determine the individual’s occupancy cost for 1998 or 1999, if the individual’s principal residence in 1998 was in an area of jurisdiction of a school board in a territory without municipal organization. 1999, c. 9, s. 120 (1); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (4).

Property tax credit extension for 1999, certain taxpayers

(7.2)  For the purpose of clause (3) (a) or clause (3.1) (a), as it read before January 1, 2005, the amount of an individual’s 1999 municipal tax that is due in 2000 and paid by the due date may be used to determine the individual’s occupancy cost for 1999 or 2000, if the individual’s principal residence in 1999 was in an area of jurisdiction of a school board in a territory without municipal organization. 2000, c. 42, s. 55 (2); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (4).

Extension of property tax credit for 2001, certain taxpayers

(7.3)  For the purpose of clause (3) (a) or clause (3.1) (a), as it read before January 1, 2005, the amount of an individual’s 2001 municipal tax that is due in 2002 and paid by the due date may be used to determine the individual’s occupancy cost for 2001 or 2002, if the individual’s principal residence in 2001 was located in a territory without municipal organization in an area of jurisdiction of a school board. 2002, c. 22, s. 108 (3); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (4).

Deemed occupancy cost for students

(8)  Where, during a taxation year, the principal residence of an individual, or of the individual’s cohabiting spouse or common-law partner with whom the individual resides at the end of the taxation year, is in a students’ residence designated by the Provincial Minister for the taxation year, the total occupancy cost in respect of that principal residence for the individual, for the individual’s cohabiting spouse or common-law partner or for both of them, if they each had such a principal residence, is $25. 1993, c. 29, s. 6 (9); 1997, c. 19, s. 9 (2); 2001, c. 23, s. 131 (10); 2004, c. 16, s. 3.

CSBIF tax credit

(8.1)  A taxpayer who has been issued one or more tax credit certificates under the Community Small Business Investment Funds Act, 1992 in respect of a taxation year may deduct from the amount of tax payable under this Act for the taxation year, before the deduction of any amounts to which the taxpayer is entitled under subsection (3), (3.1), (3.2), (4), (9), (15), (15.1), (15.2), (15.3), (15.4), (15.6) or (16), the aggregate of,

(a) if the tax credit certificates were issued with respect to investments in shares issued by a corporation registered under Part II of the Community Small Business Investment Funds Act, 1992, the aggregate of,

(i) the lesser of,

(A) the total amount of the tax credits listed on all the tax credit certificates issued in respect of the taxation year and any previous taxation years, less the total amounts of all tax credits determined under this subclause for all previous taxation years, or

(B) $4,150, and

(ii) the amount by which,

(A) the total of all amounts each of which is an amount determined under subclause (i) in respect of the taxpayer for any of the five taxation years immediately preceding the taxation year,

exceeds,

(B) the total of all amounts each of which is an amount deducted under this clause from the tax otherwise payable under this Act by the taxpayer for any of the five taxation years immediately preceding the taxation year; and

(b) if the tax credit certificates were issued with respect to an investment in shares issued by one or more corporations registered under Part III of the Community Small Business Investment Funds Act, 1992, the lesser of,

(i) the total amount of the tax credits listed on all the tax credit certificates issued in respect of that taxation year, or

(ii) the maximum tax credit permitted for the taxation year in respect of investments made by a taxpayer in corporations registered under Part III of that Act. 1992, c. 18, s. 55 (3); 1994, c. 17, s. 99; 1996, c. 24, s. 13 (1, 2); 1996, c. 29, s. 9 (2); 1997, c. 43, Sched. B, s. 4 (4, 5); 1998, c. 34, s. 69 (8); 2001, c. 23, s. 131 (11); 2002, c. 22, s. 108 (4); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (5).

Interpretation, maximum tax credit

(8.1.1)  The maximum tax credit permitted for a taxation year in respect of investments made by a taxpayer in corporations registered under Part III of the Community Small Business Investment Funds Act, 1992 is,

(a) $700 for the 1991 taxation year;

(b) $1,000 for each of the 1992, 1993, 1994 and 1995 taxation years;

(c) for the 1996 taxation year the total of,

(i) the lesser of $1,000 and the amount equal to 20 per cent of the equity capital received by the corporation from the taxpayer after 1995 and before May 7, 1996 for Class A shares issued by the corporation, other than any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the 1995 taxation year, and

(ii) the lesser of,

(A) the amount by which $525 exceeds the amount, if any, determined under subclause (i), and

(B) the amount equal to 15 per cent of the equity capital received by the corporation from the taxpayer after May 6, 1996 and before March 2, 1997 for Class A shares issued by the corporation;

(d) $525 for the 1997 taxation year;

(e) $750 for each of the 1998, 1999 and 2000 taxation years;

(f) for each taxation year ending after 2000 and before 2007, unless otherwise prescribed, the amount equal to the total of,

(i) the lesser of $750 and the amount equal to 15 per cent of the equity capital received from the taxpayer during that taxation year or during the first 60 days of the following year by the corporations on the issue of Class A shares, and

(ii) the lesser of $250 and the amount equal to 5 per cent of the equity capital received from the taxpayer during that taxation year or during the first 60 days of the following year by the corporations on the issue of Class A shares, if the shares were issued by the corporations as research oriented investment funds under subsection 16.1 (2) of the Community Small Business Investment Funds Act, 1992;

(g) for each taxation year ending after 2006 and before 2009, unless otherwise prescribed, the amount equal to the total of,

(i) the lesser of $1,125 and the amount equal to 15 per cent of the equity capital received from the taxpayer during that taxation year or during the first 60 days of the following year by the corporations on the issue of Class A shares, and

(ii) the lesser of $375 and the amount equal to 5 per cent of the equity capital received from the taxpayer during that taxation year or during the first 60 days of the following year by the corporations on the issue of Class A shares, if the shares were issued by the corporations as research oriented investment funds under subsection 16.1 (2) of the Community Small Business Investment Funds Act, 1992;

(h) Repealed: 2008, c. 7, Sched. I, s. 3 (2).

1996, c. 24, s. 13 (3); 1997, c. 43, Sched. B, s. 4 (6); 1998, c. 34, s. 69 (9, 10); 2000, c. 42, s. 55 (3); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (6-8); 2008, c. 7, Sched. I, s. 3.

No tax credit for 1997

(8.1.2)  If an individual redeemed a Class A share of a corporation registered under Part III of the Community Small Business Investment Funds Act, 1992 during 1997, no tax credit may be deducted by or allowed to the individual under subsection (8.1) for the 1997 taxation year. 1998, c. 34, s. 69 (11); 2004, c. 16, s. 3.

Exceptions

(8.1.3)  Subsection (8.1.2) does not apply to an individual for a taxation year if,

(a) the original purchaser of the share was neither the individual nor a qualifying trust for the individual as defined in subsection 127.4 (1) of the Federal Act;

(b) the individual, in the year the share is redeemed, becomes disabled and permanently unfit for work, becomes terminally ill or dies;

(c) the original purchaser redeems the share within 60 days of its original issue and the tax credit certificate referred to in subsection 25 (5) of the Community Small Business Investment Funds Act, 1992 is returned to the corporation; or

(d) the total amount of any tax credit allowed under subsection (8.1) in respect of the share has been repaid to the Minister. 1997, c. 43, Sched. B, s. 4 (7, 8); 2004, c. 16, s. 3.

Idem, filing

(8.2)  A taxpayer who claims a deduction under subsection (8.1) shall file the tax credit certificates referred to in the subsection with the taxpayer’s annual return for the first taxation year for which the taxpayer claims the deduction. 1992, c. 18, s. 55 (3); 2004, c. 16, s. 3.

Environmental trust tax credit

(8.3)  An individual who is a beneficiary of a qualifying environmental trust may deduct from tax otherwise payable under this Act for a taxation year an amount not exceeding the amount of the individual’s environmental trust tax credit for the year. 1998, c. 34, s. 69 (12); 2004, c. 16, s. 3.

Amount of environmental trust tax credit

(8.4)  The amount of an individual’s environmental trust tax credit for a taxation year is the amount that would be determined under subsection 127.41 (1) of the Federal Act to be the amount of the individual’s “Part XII.4 tax credit” for the taxation year if the tax payable under Part XII.4 of the Federal Act by a qualifying environmental trust for a taxation year ending in the individual’s taxation year equalled the amount of tax payable by the trust for that year under section 2.1. 1998, c. 34, s. 69 (12); 2004, c. 16, s. 3.

Designation by Provincial Minister

(8.5)  The Provincial Minister may designate students’ residences for the purposes of subsection (8). 1997, c. 19, s. 9 (3); 2004, c. 16, s. 3.

(8.6)  Repealed: 2003, c. 7, s. 12 (2).

Political contribution tax credit

(9)  Every individual resident in Ontario on the last day of a taxation year may, subject to subsection (9.3), deduct from tax otherwise payable for the taxation year by the individual under this Act an amount in respect of contributions he or she made in the taxation year to candidates, constituency associations or parties registered under the Election Finances Act that is equal to the amount determined under subsection (9.1). 1998, c. 9, s. 81 (4); 2004, c. 16, s. 3.

Amount

(9.1)  The amount determined under this subsection for a taxation year is,

(a) if the total amount contributed in the taxation year does not exceed the first contribution level for the taxation year, 75 per cent of the total amount contributed;

(b) if the total amount contributed in the taxation year exceeds the first but not the second contribution level for the taxation year, the sum of,

(i) 75 per cent of the first contribution level for the taxation year, and

(ii) 50 per cent of the amount by which the total amount contributed in the taxation year exceeds the first contribution level for the taxation year;

(c) if the total amount contributed in the taxation year exceeds the second contribution level for the taxation year, the lesser of,

(i) the tax credit limit for the taxation year, and

(ii) the amount determined according to the following formula:

(0.75 × A) + [0.50 × (B – A)] + [0.333 × (C – B)]

where:

“A” is the first contribution level for the taxation year,

“B” is the second contribution level for the taxation year, and

“C” is the total amount contributed in the taxation year.

1998, c. 9, s. 81 (4); 2004, c. 16, s. 3.

Definitions

(9.2)  In subsection (9.1) and in this subsection,

“first contribution level” means $300, multiplied by the indexation factor determined under section 40.1 of the Election Finances Act and rounded to the nearest dollar; (“premier niveau de contribution”)

“second contribution level” means $1,000, multiplied by the indexation factor determined under section 40.1 of the Election Finances Act and rounded to the nearest dollar; (“deuxième niveau de contribution”)

“tax credit limit” means $1,000, multiplied by the indexation factor determined under section 40.1 of the Election Finances Act and rounded to the nearest dollar. (“crédit d’impôt maximal”) 1998, c. 9, s. 81 (4); 2004, c. 16, s. 3.

Receipts

(9.3)  Payment of each amount included in the total amount contributed shall be proved by filing with the Minister receipts that,

(a) contain the information in the official receipt form provided by the Chief Electoral Officer; and

(b) are signed by a recorded agent of the candidate, constituency association or party, as the case may be. 1998, c. 9, s. 81 (4); 2004, c. 16, s. 3; 2007, c. 15, s. 40.

Refund

(10)  Subject to subsections (10.1) and (10.3), the Provincial Minister shall pay to an individual the amount, if any, by which the deduction to which the individual is entitled under this section for a taxation year exceeds the individual’s tax payable under this Act for the taxation year calculated without reference to this section. 1997, c. 43, Sched. B, s. 4 (9); 1998, c. 34, s. 69 (14); 2004, c. 16, s. 3.

Use of refund to pay liabilities

(10.1)  If an individual is liable or about to become liable to make a payment to Her Majesty in right of Canada or Her Majesty in right of Ontario or another province, the Provincial Minister may apply all or part of the amount referred to in subsection (10) to pay that liability. 1997, c. 43, Sched. B, s. 4 (9); 1998, c. 34, s. 69 (15); 2004, c. 16, s. 3.

(10.2)  Repealed: 1998, c. 34, s. 69 (16).

Donation of refund

(10.3)  If an individual indicates in the individual’s return of income tax for a taxation year that the individual wishes to make a gift to Her Majesty in right of Ontario of the amount referred to in subsection (10), or any portion of that amount, the Provincial Minister may apply the amount or the portion, as the case may be, or any lesser amount, for that purpose. 1997, c. 43, Sched. B, s. 4 (9); 2004, c. 16, s. 3.

Effect of donation

(10.4)  An amount applied by the Provincial Minister for the purpose referred to in subsection (10.3) shall be deemed to have been paid to the individual at the time notice of an original assessment of tax payable for the year or a notification that no tax is payable by the individual for the year is sent to the individual. 1997, c. 43, Sched. B, s. 4 (9); 2004, c. 16, s. 3.

Occupancy cost for two or more principal residences

(11)  An individual who has inhabited more than one principal residence in a taxation year shall, in calculating the individual’s occupancy cost, take into account only that portion of the individual’s total occupancy cost in the taxation year for each principal residence that is in the same ratio to the individual’s total occupancy cost in the taxation year for that principal residence as the number of days in the taxation year that the individual inhabited that principal residence is to the number of days for which such occupancy cost was paid for that principal residence, but no individual shall claim an occupancy cost for more than one principal residence during the same period of time. R.S.O. 1990, c. I.2, s. 8 (11); 2004, c. 16, s. 3.

Joint occupation

(12)  The occupancy cost of a principal residence inhabited by an individual in a taxation year with another person who is entitled under this section to deduct an amount under subsection (3), (3.1) or (3.2) in respect thereof shall be allocated to each of them according to the beneficial ownership of each of them in the principal residence or according to the portion of rent for the principal residence that was paid in respect of the occupation thereof by each of them in the taxation year. 1992, c. 25, s. 3 (12); 2004, c. 16, s. 3; 2005, c. 31, Sched. 11, s. 6 (9).

Same

(13)  For the purposes of subsection (12), an individual who, by reason of subsection (7), deducts an amount referred to in clause (3) (a) or (3.1) (a) in respect of another person shall be deemed,

(a) to have beneficial ownership in the principal residence equal to the total beneficial ownership held by both of them; and

(b) to have paid rent for the principal residence in respect of the occupation thereof in the taxation year equal to the total rent paid by both of them in respect of the occupation of the principal residence in the taxation year. R.S.O. 1990, c. I.2, s. 8 (13); 1992, c. 25, s. 3 (13); 2004, c. 16, s. 3.

Imputed rent

(14)  Where an individual, or a person in respect of whom the individual deducts an amount referred to in clause (3) (a) or (3.1) (a) for the taxation year by reason of subsection (7), instead of paying full rent for the occupation of a principal residence that is not owned by either of them, furnishes work or services to the owner or lessee of the principal residence, the value of the benefit received from paying less than full rent may, for the purposes of determining occupancy cost, be included in the rent paid in respect of the principal residence to the extent that the value of the benefit is included in the income for the taxation year of the person who furnished the work or services, for the purpose of determining tax payable under Part I of the Federal Act for the taxation year. R.S.O. 1990, c. I.2, s. 8 (14); 1992, c. 25, s. 3 (14); 2004, c. 16, s. 3.

Co-operative education tax credit

(15)  An individual who is an eligible employer for a taxation year may deduct from tax otherwise payable under this Act for the taxation year an amount not exceeding the employer’s co-operative education tax credit determined under section 8.2 for the taxation year. 1997, c. 43, Sched. B, s. 4 (11); 2004, c. 16, s. 3.

Graduate transitions tax credit

(15.1)  An individual who is an eligible employer for a taxation year ending after December 31, 1997 and before January 1, 2005 may deduct from tax otherwise payable under this Act for the taxation year an amount not exceeding the employer’s graduate transitions tax credit determined under section 8.1 for the taxation year. 2004, c. 31, Sched. 19, s. 5 (5).

Workplace child care tax credit

(15.2)  An individual who is an eligible individual under section 8.3 for a taxation year ending after December 31, 1997 and before January 1, 2005 may deduct from tax otherwise payable under this Act for the taxation year an amount not exceeding the amount of his or her workplace child care tax credit determined under section 8.3 for the taxation year. 2004, c. 31, Sched. 19, s. 5 (6).

Workplace accessibility tax credit

(15.3)  An individual who is an eligible employer under section 8.4 for a taxation year ending after December 31, 1997 and before January 1, 2005 may deduct from tax otherwise payable under this Act for the taxation year an amount not exceeding the amount of his or her workplace accessibility tax credit determined under section 8.4 for the taxation year. 2004, c. 31, Sched. 19, s. 5 (7).

Educational technology tax credit

(15.4)  An individual who is an eligible individual under section 8.4.1 for a taxation year ending after December 31, 1999 and before January 1, 2005 may deduct from the amount of tax otherwise payable under this Act for the taxation year an amount not exceeding the amount of his or her educational technology tax credit determined under that section for the taxation year. 2004, c. 31, Sched. 19, s. 5 (8).

Equity in education tax credit

(15.5)  An individual who is a qualifying taxpayer for the purposes of section 8.4.2 for a taxation year ending after December 31, 2001 and before January 1, 2003 may deduct from tax otherwise payable under this Act for the taxation year the total of all amounts each of which is the qualifying taxpayer’s share of the equity in education tax credit for an eligible child as determined under that section. 2001, c. 8, s. 40; 2003, c. 7, s. 12 (3); 2004, c. 16, s. 3.

Ontario focused flow-through share tax credit

(15.6)  An eligible individual may deduct from the amount of his or her tax otherwise payable under this Act for a taxation year ending after December 31, 2000 an amount not exceeding the amount of his or her Ontario focused flow-through share tax credit determined under section 8.4.3 for the taxation year. 2001, c. 23, s. 131 (12); 2004, c. 16, s. 3.

Ontario school bus safety tax credit

(16)  An individual who is an eligible individual under section 8.4.4 may deduct from the amount of tax otherwise payable under this Act for a taxation year ending after June 17, 2002 and commencing before January 1, 2006 an amount not exceeding the amount of his or her Ontario school bus safety tax credit determined under section 8.4.4 for the taxation year. 2002, c. 22, s. 108 (5); 2004, c. 16, s. 3.

Apprenticeship training tax credit

(16.1)  An individual who is an eligible employer under section 8.4.5 may deduct from the amount of tax otherwise payable under this Act for a taxation year ending after May 18, 2004 an amount not exceeding the amount of his or her apprenticeship training tax credit determined under section 8.4.5 for the taxation year. 2004, c. 31, Sched. 19, 5 (9).

More than one taxation year in the calendar year

(17)  If an individual or someone on his or her behalf files returns under the Federal Act in respect of the individual’s income for more than one taxation year ending in the same calendar year, the following rules apply for the purposes of this section:

1. No deduction may be claimed or allowed under this section in a return filed pursuant to an election made under subsection 70 (2), 104 (23) or 150 (4) of the Federal Act.

2. No deduction, other than a deduction claimed under any of subsections (15), (15.1), (15.2), (15.3), (15.4), (16) and (16.1), may be claimed or allowed under this section in a return filed on behalf of the individual by a trustee in bankruptcy under paragraph 128 (2) (e) or (h) of the Federal Act.

3. Any deduction to which the individual may be entitled under this section, other than a deduction claimed under any of subsections (15), (15.1), (15.2), (15.3), (15.4), (16) and (16.1), shall be claimed only for the last taxation year ending in or coinciding with the calendar year.

4. The individual may determine his or her occupancy cost for the last taxation year ending in or coinciding with the calendar year as the amount that would be his or her occupancy cost for the whole calendar year, excluding any portion of the occupancy cost that has been taken into account by the individual’s spouse or common-law partner in computing the amount of a tax credit described in clause (3) (a), (3.1) (a) or (3.2) (a) for the calendar year.

5. The individual may calculate the deduction to which he or she is entitled under subsection (9) as though the reference in that subsection to “contributions he or she made in the taxation year to candidates, constituency associations or parties” read as if it were a reference to contributions he or she made to any of them in the calendar year.

6. The individual shall determine his or her adjusted income for the taxation year for the purposes of this section as if the taxation year were the full calendar year.

7. A deduction under any of subsections (15), (15.1), (15.2), (15.3), (15.4), (16) and (16.1) may be claimed for the taxation year in which the individual becomes eligible for the deduction and may be claimed in a return filed on behalf of the individual by a trustee in bankruptcy under paragraph 128 (2) (e) or (h) of the Federal Act if the individual becomes eligible for the deduction during the period when the trustee is deemed to be acting as agent for the individual for the purposes of the Federal Act.

8. If a deduction under any of subsections (15), (15.1), (15.2), (15.3), (15.4), (16) and (16.1) is claimed in a return filed by a trustee in bankruptcy under paragraph 128 (2) (e) or (h) of the Federal Act, no deduction under that subsection in respect of the same expenditures may be claimed in any other return filed in respect of the individual’s income.

9. No amount may be deducted by an individual under subsection (15.6) in respect of expenditures incurred or deemed to be incurred by the individual in a taxation year during which the individual was at any time bankrupt, unless the individual was discharged absolutely from bankruptcy before the end of the taxation year. 1997, c. 43, Sched. B, s. 4 (15, 17, 18); 1998, c. 34, s. 69 (19-23); 1999, c. 9, s. 120 (2); 2001, c. 23, s. 131 (13); 2002, c. 22, s. 108 (6-9); 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 5 (10-13); 2005, c. 5, s. 33 (2); 2005, c. 31, Sched. 11, s. 6 (10).

Application for tax credit

(18)  The Provincial Minister may allow a deduction or an additional deduction under this section to an individual for a taxation year after 1984,

(a) if the individual makes a claim to the Provincial Minister that he or she is entitled to the deduction or additional deduction in excess of the amount of any deduction previously allowed under this section for the taxation year;

(b) if the claim for the deduction or additional deduction is not made in connection with or for the same taxation year as a remission referred to in subsection 28 (1) made under the Financial Administration Act (Canada); and

(c) if the Provincial Minister is satisfied that the individual is entitled to the deduction or additional deduction. 1998, c. 5, s. 3; 2004, c. 16, s. 3.

Same

(19)  Where the Provincial Minister allows a deduction or an additional deduction under subsection (18), he or she shall apply the amount of the deduction or additional deduction in the manner described in subsection (10). 1998, c. 5, s. 3; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 18, s. 55 (2, 3) - 15/10/1991; 1992, c. 25, s. 3 (1) - 10/12/1992; 1992, c. 25, s. 3 (3, 5, 7, 9, 13, 14) - 1/01/1992; 1992, c. 25, s. 3 (12) - 1/01/1993; 1993, c. 29, s. 6 (1-9) - 1/01/1993; 1994, c. 17, s. 99 - 20/05/1993; 1996, c. 1, Sched. C, s. 8 (1) - 1/04/1996; 1996, c. 24, s. 13 (1) - 1/01/1992; 1996, c. 24, s. 13 (2, 3) - 1/01/1996; 1996, c. 29, s. 9 (1, 2) - 1/01/1996; 1997, c. 19, s. 9 (1, 2) - 1/01/1996; 1997, c. 19, s. 9 (3) - 10/10/1997; 1997, c. 43, Sched. B, s. 4 (2, 4, 7, 13, 15) - 1/01/1997; 1997, c. 43, Sched. B, s. 4 (5, 6, 8) - 7/05/1997; 1997, c. 43, Sched. B, s. 4 (9) - 18/12/1997; 1997, c. 43, Sched. B, s. 4 (11, 18) - 1/01/1998; 1998, c. 5, s. 3 - 26/06/1998; 1998, c. 34, s. 69 (1,3, 7-11, 14-16, 18, 21) - 1/01/1998; 1998, c. 34, s. 69 (4, 12) - 19/02/1997; 1998, c. 9, s. 81 (1, 2, 4) - 1/01/1999; 1999, c. 9, s. 120 (1) - 1/01/1998; 1999, c. 9, s. 120 (2) - 1/01/1999

[2000, c. 42, s. 55 (1, 2, 4)](http://www.ontario.ca/laws/statute/S00042" \l "s55s1) - 1/01/2000; [2000, c. 42, s. 55 (3)](http://www.ontario.ca/laws/statute/S00042" \l "s55s3) - 1/01/2001

[2001, c. 8, s. 40](http://www.ontario.ca/laws/statute/S01008" \l "s40) - 1/01/2002; [2001, c. 23, s. 131 (1, 3-10)](http://www.ontario.ca/laws/statute/S01023" \l "s131s1) - 1/01/2001; [2001, c. 23, s. 131 (2)](http://www.ontario.ca/laws/statute/S01023" \l "s131s2) - 1/01/2002; [2001, c. 23, s. 131 (11-13)](http://www.ontario.ca/laws/statute/S01023" \l "s131s11) - 1/01/2000

[2002, c. 22, s. 108 (1, 2)](http://www.ontario.ca/laws/statute/S02022" \l "s108s1) - 1/01/2003; [2002, c. 22, s. 108 (3)](http://www.ontario.ca/laws/statute/S02022" \l "s108s3) - 1/01/2001; [2002, c. 22, s. 108 (4-9)](http://www.ontario.ca/laws/statute/S02022" \l "s108s4) - 9/12/2002

[2003, c. 4, s. 11 (1, 2)](http://www.ontario.ca/laws/statute/S03004" \l "s11s1) - 1/07/2003; [2003, c. 7, s. 12 (1, 2)](http://www.ontario.ca/laws/statute/S03007" \l "s12s1) - 18/12/2003; [2003, c. 7, s. 12 (3)](http://www.ontario.ca/laws/statute/S03007" \l "s12s3) - 1/01/2003

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 7](http://www.ontario.ca/laws/statute/S04029" \l "s7) - 1/01/2004; [2004, c. 31, Sched. 19, s. 5 (1)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s5s1) - 18/06/2002; [2004, c. 31, Sched. 19, s. 5 (2, 9-13)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s5s2) - 18/05/2004; [2004, c. 31, Sched. 19, s. 5 (3, 4)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s5s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 5 (5-8)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s5s5) - 1/01/2005

[2005, c. 5, s. 33 (1, 2)](http://www.ontario.ca/laws/statute/S05005" \l "s33s1) - 9/03/2005; [2005, c. 31, Sched. 11, s. 6 (1-5, 9, 10)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s6s1) - 1/01/2005; [2005, c. 31, Sched. 11, s. 6 (6-8)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s6s6) - 15/12/2005

[2006, c. 33, Sched. N, s. 4 (1-4)](http://www.ontario.ca/laws/statute/S06033" \l "schedns4s1) - 1/01/2006; [2006, c. 33, Sched. Z.3, s. 14 (1, 2)](http://www.ontario.ca/laws/statute/S06033" \l "schedz3s14s1) - 1/01/2009

[2007, c. 7, Sched. 17, s. 1](http://www.ontario.ca/laws/statute/S07007" \l "sched17s1) - 17/05/2007; [2007, c. 8, s. 212](http://www.ontario.ca/laws/statute/S07008" \l "s212) - see [*Table of Public Statute Provisions Repealed Under Section 10.1 of the Legislation Act, 2006*](http://www.ontario.ca/laws/public-statute-provisions-repealed-under-section-101-legislation-act-2006) - 31/12/2017; [2007, c. 15, s. 40 (1)](http://www.ontario.ca/laws/statute/S07015" \l "s40s1) - 4/06/2007

[2008, c. 7, Sched. I, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S08007" \l "schedis3s1) - 1/01/2007; [2008, c. 19, Sched. I, s. 1 (1-3)](http://www.ontario.ca/laws/statute/S08019" \l "schedis1s1) - 1/01/2008

Graduate transitions tax credit

**8.1**  (1)  The amount of an eligible employer’s graduate transitions tax credit for a taxation year is the sum of,

(a) all amounts each of which is in respect of a qualifying employment that commenced not less than 12 months before the end of the taxation year or terminated before the end of the taxation year, equal to the lesser of the employer’s eligible amount for the taxation year in respect of the qualifying employment determined under subsection (2) and $4,000; and

(b) the total of all amounts, each of which is an amount determined by multiplying the eligible percentage by the amount of a repayment, if any, made by the employer during the taxation year, of government assistance in respect of the qualifying employment of an employee, to the extent the repayment does not exceed the amount of the assistance in respect of the qualifying employment that,

(i) has not been repaid in a prior taxation year, and

(ii) can reasonably be considered to have reduced the amount of a graduate transitions tax credit that would otherwise have been allowed to the employer under this Act in respect of the qualifying employment. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Eligible amount

(2)  An eligible employer’s eligible amount for a taxation year in respect of a qualifying employment is the amount determined under the following rules:

1. If the qualifying employment commenced before January 1, 1998, the amount is 10 per cent of the total of all eligible expenditures made by the employer in respect of the qualifying employment.

2. If the qualifying employment commenced after December 31, 1997 and before July 5, 2004 and the total of all salaries or wages paid by the employer in the previous taxation year is equal to or greater than $600,000, the amount is 10 per cent of the total of all eligible expenditures made by the employer in respect of the qualifying employment.

3. If the qualifying employment commenced after December 31, 1997 and before July 5, 2004 and the total of all salaries or wages paid by the employer in the previous taxation year is not greater than $400,000, the amount is 15 per cent of the total of all eligible expenditures made by the employer in respect of the qualifying employment.

4. If the qualifying employment commenced after December 31, 1997 and before July 5, 2004 and the total of all salaries or wages paid by the employer in the previous taxation year is greater than $400,000 but less than $600,000, the amount is the amount determined in accordance with the following formula:

A = (10% × B) + [(5% × B) × (1 – C/$200,000)]

where,

“A” is the amount of the employer’s eligible amount for the taxation year in respect of the qualifying employment,

“B” is the amount of all eligible expenditures made by the employer in respect of the qualifying employment, and

“C” is the amount by which the total of all salaries or wages paid by the employer in the previous taxation year exceeds $400,000.

1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 6 (1-3).

Number of tax credits

(3)  Except for a tax credit in respect of the repayment of government assistance, a tax credit under this section may be claimed only once in respect of each qualifying employment. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Partnership

(4)  If an eligible employer is a member of a partnership and the partnership would qualify for a graduate transitions tax credit for a taxation year if the partnership were an eligible employer, the portion of the tax credit that may reasonably be considered to be the member’s share of the tax credit may be included in determining the amount of the member’s graduate transitions tax credit for that taxation year. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Limited partner

(5)  Despite subsection (4), a limited partner’s share of a partnership’s graduate transitions tax credit referred to in subsection (4) shall be deemed to be nil. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Eligible employer

(6)  For the purposes of this section and subsection 8 (15.1), an individual is an eligible employer for a taxation year if the individual,

(a) carries on business during the taxation year, either alone or as a member of a partnership, through a permanent establishment in Ontario; and

(b) is not exempt from tax under the Act for the taxation year by reason of section 6. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Qualifying employment

(7)  The employment of an employee by an eligible employer is a qualifying employment if,

(a) the employment commenced after May 6, 1997 and before July 5, 2004 and continued for at least six consecutive months, and during those six months the employee was required to work an average of more than 24 hours a week; and

(b) the employee,

(i) was not related to the eligible employer at the time the employment commenced,

(ii) had not been employed by any person more than 15 hours per week during 16 of the 32 weeks immediately before the first day of the employment,

(iii) had not had a source of income from a business for at least 16 of the 32 weeks immediately preceding the first day of the employment,

(iv) completed all requirements to qualify for graduation from a prescribed program of study within three years before the first day of the employment, and

(v) carried out his or her employment duties at or through a permanent establishment of the eligible employer in Ontario. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 6 (4).

Eligible expenditures

(8)  An eligible employer’s eligible expenditures in respect of a qualifying employment are the amounts paid or payable to the employee as salary or wages during the 12-month period commencing on the first day of the qualifying employment that,

(a) would be considered for the purposes of Part XXVI of the Federal Regulations to be included in the amount of salary or wages paid to employees of a permanent establishment of the employer in Ontario; and

(b) are required by Subdivision a of Division B of Part I of the Federal Act to be included in the income from employment of the employee in respect of the qualifying employment. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Same

(9)  The total of all eligible expenditures made by an eligible employer in respect of a qualifying employment shall be the amount otherwise determined less the amount of all government assistance, if any, in respect of the eligible expenditures that, at the time the eligible employer is required to deliver a return under this Act for the taxation year for which the tax credit is claimed, the eligible employer has received, is entitled to receive or can reasonably be expected to be entitled to receive. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Exception

(10)  Despite subsections (8) and (9), an expenditure made by an eligible employer in respect of a qualifying employment is not an eligible expenditure in respect of the employment,

(a) to the extent that the amount of the expenditure would not be considered to be reasonable in the circumstances by persons dealing with each other at arm’s length; or

(b) if the qualifying employment is with a person other than the eligible employer. 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

Definitions

(11)  In this section,

“eligible percentage” means, in respect of a repayment of government assistance, the percentage used in determining the amount of the tax credit, if the receipt of the government assistance reduced the amount of a tax credit available under this section; (“pourcentage autorisé”)

“government assistance” means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax and investment allowance, but not including a graduate transitions tax credit under subsection 8 (15.1), a workplace accessibility tax credit under subsection 8 (15.3) or an investment tax credit under section 127 of the Federal Act; (“aide gouvernementale”)

“individual” means a person who is an individual for the purposes of subsection 8 (15.1); (“particulier”)

“prescribed program of study” means a program of study that satisfies the rules prescribed by the regulations; (“programme d’études prescrit”)

“salary or wages” has the meaning assigned to that term by subsection 248 (1) of the Federal Act. (“traitement ou salaire”) 1997, c. 43, Sched. B, s. 5; 1998, c. 34, s. 70; 2004, c. 16, s. 3.

Regulations

(12)  The Lieutenant Governor in Council may make regulations prescribing the method of calculating the amount of salaries or wages that will be deemed to be paid by an eligible employer in a previous taxation year for the purposes of subsection (2). 1997, c. 43, Sched. B, s. 5; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. B, s. 5 - 1/01/1997; 1998, c. 34, s. 70 - 1/01/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 6 (1-4)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s6s1) - 5/07/2004

Co-operative education tax credit

**8.2**  (1)  The amount of an eligible employer’s co-operative education tax credit for a taxation year is the sum of,

(a) all amounts each of which is in respect of a qualifying work placement that ends in the taxation year and is equal to the lesser of the employer’s eligible amount determined under subsection (2) and $1,000; and

(b) the total of all amounts, each of which is an amount determined by multiplying the eligible percentage by the amount of a repayment, if any, made by the eligible employer during the taxation year, of government assistance in respect of the qualifying work placement of an employee, to the extent the repayment does not exceed the amount of the assistance in respect of the qualifying work placement that,

(i) has not been repaid in a prior taxation year, and

(ii) can reasonably be considered to have reduced the amount of a co-operative education tax credit that would otherwise have been allowed to the eligible employer under this Act in respect of the qualifying work placement. 1997, c. 43, Sched. B, s. 6 (1); 2004, c. 16, s. 3.

Eligible amount

(2)  An eligible employer’s eligible amount for a taxation year in respect of a qualifying work placement is the amount determined under the following rules:

1. If the total of all salaries or wages paid to employees by the eligible employer in the previous taxation year is equal to or greater than $600,000, the amount is 10 per cent of the total of all eligible expenditures made by the employer in respect of the qualifying work placement.

2. If the total of all salaries or wages paid to employees by the eligible employer in the previous taxation year is not greater than $400,000, the amount is 15 per cent of the total of all eligible expenditures made by the employer in respect of the qualifying work placement.

3. If the total of all salaries or wages paid to employees by the eligible employer in the previous taxation year is greater than $400,000 but less than $600,000, the amount is the amount determined in accordance with the following formula:

A = (10% × B) + [(5% × B) × (1 – C/$200,000)]

where,

“A” is the amount of the employer’s eligible amount for the taxation year in respect of the qualifying work placement,

“B” is the amount of all eligible expenditures made by the employer in respect of the qualifying work placement, and

“C” is the amount by which the total of all salaries or wages paid by the employer in the previous taxation year exceeds $400,000.

1997, c. 43, Sched. B, s. 6 (1); 2004, c. 16, s. 3.

Definitions

(3)  In this section,

“eligible percentage” means, in respect of a repayment of government assistance, the percentage used in determining the amount of the tax credit, if the receipt of the government assistance reduced the amount of a tax credit available under this section; (“pourcentage autorisé”)

“government assistance” means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax and investment allowance, but not including a co-operative education tax credit under subsection 8 (15), a workplace accessibility tax credit under subsection 8 (15.3) or an investment tax credit under section 127 of the Federal Act. (“aide gouvernementale”) 1997, c. 43, Sched. B, s. 6 (1); 1998, c. 34, s. 71; 2004, c. 16, s. 3.

Regulations

(4)  The Lieutenant Governor in Council may make regulations respecting the following matters relating to the co-operative education tax credit:

1. Defining “eligible employer” and prescribing the conditions that must be satisfied for a person to be an eligible employer in respect of a qualifying work placement.

2. Defining “eligible expenditure” and prescribing the rules for determining the amount of eligible expenditures in respect of a qualifying work placement.

3. Defining “qualifying work placement” and prescribing the conditions that must be satisfied for a work placement to be a qualifying work placement.

4. Prescribing the procedure for claiming a co-operative education tax credit, the restrictions on claiming the tax credit and the manner in which an eligible employer is to receive the benefit of the tax credit.

5. Prescribing the method of claiming a co-operative education tax credit where the employer is a partnership.

6. Prescribing the method of calculating the amount of salaries or wages that will be deemed to be paid by an eligible employer in a previous taxation year for the purposes of subsection (2). 1997, c. 43, Sched. B, s. 6 (1); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. B, s. 6 (1) - 1/01/1998; 1998, c. 34, s. 71 - 1/01/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Workplace child care tax credit

**8.3**  (1)  The amount of an eligible individual’s workplace child care tax credit for a taxation year is the amount equal to 5 per cent of the individual’s qualifying expenditures for the taxation year. 1998, c. 34, s. 72; 2004, c. 16, s. 3.

Qualifying expenditures

(2)  Subject to subsection (4), the amount of an eligible individual’s qualifying expenditures for a taxation year is the total of,

(a) all capital costs incurred by the individual after May 5, 1998 and before January 1, 2005,

(i) in the construction or renovation of a licensed child care facility in Ontario that are included by the individual for that year for the purposes of the Federal Act in Class 1, 3, 6 or 13 of Schedule II to the regulations made under that Act, and

(ii) on the acquisition of playground equipment for the child care facility that are included by the individual for that year for the purposes of the Federal Act in Class 8 of Schedule II to the regulations made under that Act;

(b) all payments of money and the value of qualified contributions that are made by the individual after May 5, 1998 and before January 1, 2005 to a child care operator who deals at arm’s length with the individual, to the extent that the child care operator has used the money and contributions for the purposes described in clause (a) in the individual’s taxation year so long as the operator has provided to the individual,

(i) confirmation in writing of the amount of money and qualified contributions used for those purposes, and

(ii) the operator’s licence number under the Day Nurseries Act; and

(c) repayments of government assistance made by the individual during the taxation year that do not exceed the amount of the assistance that,

(i) has not been repaid in a prior taxation year, and

(ii) can reasonably be considered to have reduced the amount of a tax credit that would otherwise have been allowed to the individual under subsection 8 (15.2). 1998, c. 34, s. 72; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 7.

Qualified contribution

(3)  The following contributions are qualified contributions from an eligible individual for the purposes of clause (2) (b):

1. The fair market value of property the ownership of which is transferred by the individual to the child care operator, if the property is used by the child care operator in the activities and for the purposes described in clause (2) (a).

2. The fair market value of services provided by the individual to the child care operator, if the services are used by the child care operator in the activities and for the purposes described in clause (2) (a).

3. The reasonable monetary value of the benefit from a loan or a loan guarantee given by the individual to the child care operator, to the extent the proceeds of the loan are used by the child care operator in the activities and for the purposes described in clause (2) (a). 1998, c. 34, s. 72; 2004, c. 16, s. 3.

Limitation on qualifying expenditures

(4)  The amount of an eligible individual’s qualifying expenditures for a taxation year shall be determined after the deduction of,

(a) all government assistance, if any, in respect of the qualifying expenditures that, at the time the individual’s return is required to be delivered under section 9 for the taxation year for which the tax credit is claimed under this section, the individual has received, is entitled to receive or may reasonably be expected to be entitled to receive; and

(b) the amount, if any, of the expenditures that would not be considered to be reasonable in the circumstances if they had been incurred by persons dealing with each other at arm’s length. 1998, c. 34, s. 72; 2004, c. 16, s. 3.

Partnership

(5)  If an eligible individual is a member of an eligible partnership at the end of a taxation year and the partnership incurs, in a fiscal period of the partnership that ends in the taxation year, an expenditure in respect of a licensed child care facility that would be a qualifying expenditure for the purposes of this section if the expenditure had been made by an eligible individual, the portion of the expenditure that may reasonably be considered to be the individual’s share may be included by the individual in the amount of his or her qualified expenditures for the taxation year for the purposes of this section. 1998, c. 34, s. 72; 2004, c. 16, s. 3.

Limited partner

(6)  Despite subsection (5), a limited partner’s share of an expenditure that is considered under subsection (5) to be a qualifying expenditure for the purposes of this section shall be deemed to be nil. 1998, c. 34, s. 72; 2004, c. 16, s. 3.

Definitions

(7)  In this section,

“child care facility” means a day nursery as defined in the Day Nurseries Act; (“garderie”)

“child care operator” means a person who has control or management of a child care facility; (“exploitant de garderie”)

“eligible individual” means, in respect of a taxation year, an individual,

(a) who carries on business through a permanent establishment in Ontario in the taxation year,

(b) who is not a child care operator that controls or manages a child care facility with an expectation of profit, and

(c) who is not exempt from tax under section 6; (“particulier admissible”)

“eligible partnership” means, in respect of a fiscal period, a partnership,

(a) that has one or more members, other than limited partners, who are eligible individuals for the taxation year in which the fiscal period ends, and

(b) that carries on business through a permanent establishment in Ontario in the fiscal period but does not carry on the business of a child care operator; (“société de personnes admissible”)

“government assistance” means assistance from a government, municipality or other public authority in any form including a grant, subsidy, forgiveable loan, deduction from tax and investment allowance, but not including a workplace child care tax credit under subsection 8 (15.2) or any other amount that may be prescribed; (“aide gouvernementale”)

“licensed child care facility” means a child care facility operated under the authority of a licence issued by the Ministry of Community and Social Services under the Day Nurseries Act; (“garderie agréée”)

“playground equipment” means a structure erected in the playground area of a licensed child care facility for recreational purposes. (“matériel de terrains de jeux”) 1998, c. 34, s. 72; 1999, c. 9, s. 121; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 72 - 1/01/1998; 1999, c. 9, s. 121 - 1/01/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 7 (1, 2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s7s1) - 1/01/2005

Workplace accessibility tax credit

**8.4**  (1)  Subject to subsection (8), the amount of an eligible employer’s workplace accessibility tax credit for a taxation year under subsection 8 (15.3) is 15 per cent of the total of the amounts determined under the following paragraphs:

1. The amount, if any, incurred by the employer in the taxation year but after July 1, 1998 and before January 1, 2005 to provide during a job interview in Ontario the support services of a sign language interpreter, an intervenor, a note-taker, a reader or an attendant.

2. The total of all amounts, each of which is determined in respect of a qualifying employee and is equal to the lesser of,

i. the total amount of qualifying expenditures, other than qualifying expenditures included in the amount determined under paragraph 1, that are incurred by the employer in the taxation year in respect of the qualifying employee, and

ii. the amount by which $50,000 exceeds the total of all amounts, each of which is a qualifying expenditure in respect of the qualifying employee that was included in determining a workplace accessibility tax credit of the employer for a prior taxation year.

3. The amount of repayments of government assistance made by the employer during the taxation year, if any, that does not exceed the amount of the assistance that,

i. has not been repaid in a prior taxation year, and

ii. can reasonably be considered to have reduced the amount of a tax credit that would otherwise have been allowed to the employer under subsection 8 (15.3). 1998, c. 34, s. 73; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 8 (1).

Eligible partnership

(2)  If an employer is a member of an eligible partnership at the end of a taxation year and the partnership incurs, in a fiscal period of the partnership that ends in the taxation year, an expenditure in respect of which the partnership would be entitled to claim a tax credit under subsection 8 (15.3) if the expenditure had been made by an eligible employer, the employer may claim a tax credit equal to the portion of the tax credit that would be determined in respect of the partnership for the fiscal period under subsection (1) that can reasonably be considered to be the employer’s share of the tax credit. 1998, c. 34, s. 73; 2004, c. 16, s. 3.

Limited partner

(3)  Despite subsection (2), no amount may be deducted by an eligible employer in respect of an expenditure incurred by a partnership in which the employer is a limited partner. 1998, c. 34, s. 73; 2004, c. 16, s. 3.

Qualifying expenditure

(4)  Subject to subsection (5), each of the following expenditures incurred after July 1, 1998 and before January 1, 2005 by an eligible employer or eligible partnership in respect of a qualifying employee is a qualifying expenditure:

1. An expenditure that is incurred not more than three months before and not more than 12 months after the date of commencement of the qualifying employee’s employment with the employer or partnership and,

i. that is in respect of a building, device or equipment in Ontario and is deductible by the employer or partnership in computing its income under paragraph 20 (1) (qq) or (rr) of the Federal Act,

ii. that is for the installation at a location in Ontario of a passenger elevator, vertical platform lift, inclined platform lift or stairway lift to accommodate the qualifying employee in performing his or her job functions, or

iii. that is for the acquisition of any of the following devices or equipment, if the device or equipment is required by the qualifying employee at a location in Ontario to perform his or her job functions:

A. an environmental control unit to operate a telephone and lights, a door opener or other office equipment modified to accommodate an individual with mobility impairment,

B. an ergonomic work station and seating, a customized filing system or other office furniture adapted to accommodate an individual with mobility impairment,

C. a telephone headset for use by an individual with a mobility impairment,

D. specialized lighting for an individual with a visual impairment or epilepsy,

E. a real time captioning or alphanumeric pager for an individual with hearing impairment,

F. a tool, machinery or information communication system adapted for use by an individual with a physical or mental impairment,

G. computer hardware or a hardware attachment that is required to use disability-specific computer software.

2. An expenditure incurred not more than six months after the date of commencement of the qualifying employee’s employment with the employer or partnership to provide the support services at a location in Ontario of a job coach, a note-taker, a reader, a sign language interpreter, an intervenor or an attendant for the employee, if the services are required by the employee by reason of a physical or mental impairment.

3. An expenditure incurred not more than 12 months after the date of commencement of the qualifying employee’s employment with the employer or partnership to train the employee or his or her coworkers to use a device or equipment described in subparagraph iii of paragraph 1.

4. An expenditure prescribed by the regulations. 1998, c. 34, s. 73; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 8 (2).

Limitation on qualifying expenditures

(5)  The amount of an eligible employer’s qualifying expenditures for a taxation year shall be determined after the deduction of,

(a) all government assistance, if any, in respect of the qualifying expenditures that, at the time the employer’s return is required to be delivered under section 9 for the taxation year for which the tax credit is claimed under this section, the employer, or the partnership of which the employer is a member, has received, is entitled to receive or may reasonably be expected to be entitled to receive;

(b) the amount, if any, of the expenditures that would not be considered to be reasonable in the circumstances if they had been incurred by persons dealing with each other at arm’s length; and

(c) the amount, if any, of the expenditures that were included in determining the amount of a tax credit for a taxation year under this section in respect of another qualifying employee. 1998, c. 34, s. 73; 2004, c. 16, s. 3.

Qualifying employee

(6)  A qualifying employee of an eligible employer, or of an eligible partnership of which the employer is a member, is an individual who,

(a) deals at arm’s-length with the employer;

(b) is employed by the employer or the partnership for at least 60 hours per month;

(c) is employed by the employer or the partnership for a period of at least three months before January 1, 2005;

(d) within 12 months prior to the date of commencing employment with the employer or partnership, was not employed by the employer or by a partnership of which the employer is a member; and

(e) is an individual described in subsection (7) or who has obtained a Workplace Accessibility Tax Incentive Certificate in a form approved by the Provincial Minister from a qualified medical practitioner certifying,

(i) that the individual has a physical or mental impairment that is continuous or recurrent and expected to last at least one year, and

(ii) that, in the opinion of the practitioner, the impairment constitutes a substantial barrier to competitive employment without accommodations. 1998, c. 34, s. 73; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 8 (3).

Same

(7)  For the purposes of clause (6) (e), an individual is described in this subsection if,

(a) the individual is an individual in respect of whom a tax credit under section 118.3 of the Federal Act may be claimed;

(b) the individual is eligible for income support or employment supports under the Ontario Disability Support Program Act, 1997 immediately prior to commencing employment with the employer or partnership;

(c) the individual is in receipt of a Disability Benefits Canada Pension under the Canada Pension Plan Act immediately prior to commencing employment with the employer or partnership;

(d) the individual is registered with the Canadian National Institute for the Blind;

(e) the individual is eligible to receive assistance from the Assistive Devices Program administered by the Ministry of Health and Long-Term Care; or

(f) the individual satisfies the conditions prescribed by the regulations. 1998, c. 34, s. 73; 2004, c. 16, s. 3; 2006, c. 19, Sched. L, s. 11 (3).

Exception

(8)  No amount may be included in determining the amount of a tax credit under subsection 8 (15.3) in respect of an expenditure incurred in respect of a qualifying employee of the employer or of a partnership of which the employer is a member, unless the employer retains, as part of its records that are required to be kept under the Federal Act, a copy of the certificate referred to in subsection (6) or a copy of the documentation upon which the employer relies in claiming that the employee is an individual described in subsection (7). 1998, c. 34, s. 73; 2004, c. 16, s. 3.

Definitions

(9)  In this section,

“attendant” means an individual who provides personal support services to a person with a physical disability under the direction of the person on a pre-scheduled visitation basis; (“préposé”)

“eligible employer” means an individual who carries on business through a permanent establishment in Ontario and is not exempt from tax under section 6; (“employeur admissible”)

“eligible partnership” means a partnership that carries on business through a permanent establishment in Ontario and that has one or more members, other than limited partners, who are eligible employers; (“société de personnes admissible”)

“government assistance” means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax and investment allowance, but not including a workplace accessibility tax credit under subsection 8 (15.3) or any other amount that may be prescribed; (“aide gouvernementale”)

“intervenor” means an individual who acts as a communication link by providing information, facts and support to a person who is deaf-blind; (“intermédiaire”)

“job coach” means an individual who assists a newly-hired qualifying employee to attain productivity in the workplace that matches other employees by working on-site with the qualifying employee to help him or her to,

(a) become oriented in the workplace,

(b) learn the specific work tasks required by the position,

(c) develop communication skills for interacting with supervisors and co-workers, or

(d) adjust to the work environment; (“agent d’intégration”)

“mental impairment” means a developmental or learning impairment, a psychiatric impairment or an impairment resulting from a head injury; (“déficience mentale”)

“personal support services” include assistance with personal grooming and hygiene, dressing, breathing by operating respiratory equipment, toileting, eating, essential communication by way of bliss boards and augmentative communication, positioning and transferring; (“services de soutien personnels”)

“qualified medical practitioner” means an individual described in section 3 of Ontario Regulation 223/98 made under the Ontario Disability Support Program Act, 1997; (“professionnel de la santé qualifié”)

“sign language interpreter” means an individual who acts as a communication link by using sign language to provide information, facts and support to a deaf person. (“interprète gestuel”) 1998, c. 34, s. 73; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 73 - 1/01/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 8 (1-3)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s8s1) - 1/01/2005

[2006, c. 19, Sched. L, s. 11 (3)](http://www.ontario.ca/laws/statute/S06019" \l "schedls11s3) - 22/06/2006

Educational technology tax credit

**8.4.1**  (1)  The amount of an eligible individual’s educational technology tax credit for a taxation year ending after May 2, 2000 and before January 1, 2005 under subsection 8 (15.4) is the amount determined under subsection (2) in respect of eligible equipment that is donated or sold or eligible learning technology that is donated, sold or licensed to an eligible educational institution by the eligible individual after May 2, 2000 and during the taxation year. 2000, c. 42, s. 56; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 9.

Amount of credit

(2)  The amount of an eligible individual’s educational technology tax credit for a taxation year is the total of all amounts each of which is calculated, in respect of eligible equipment that is donated or sold or eligible learning technology that is donated, sold or licensed to an eligible educational institution in the taxation year, using the formula,

(A – B) × 0.05

in which,

“A” is the individual’s notional price for the equipment or technology, and

“B” is the fair market value of the consideration, if any, paid or payable by the institution for the equipment or technology.

2000, c. 42, s. 56; 2004, c. 16, s. 3.

Partnerships

(3)  An eligible individual who is a member of an eligible partnership at the end of a taxation year may claim a tax credit equal to the amount described in paragraph 3 in the circumstances described in paragraphs 1 and 2:

1. In a fiscal period of the partnership that ends in the taxation year, the partnership donates or sells eligible equipment or donates, sells or licensed eligible learning technology to an eligible educational institution.

2. If the donation or sale had been made or the licence had been given by an eligible individual, the individual would be entitled to claim a tax credit under this section.

3. The amount of the tax credit the individual may claim is the amount that may reasonably be considered to be the individual’s share of the amount that the partnership would be entitled to deduct in respect of the donation, sale or licence if the partnership were a corporation. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Limited partner

(4)  Despite subsection (3), no amount may be claimed under this section by an eligible individual in respect of a donation or sale of eligible equipment or a donation, sale or licence of eligible learning technology by a partnership in which the individual is a limited partner. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Certificate

(5)  An eligible educational institution shall issue a certificate to the eligible individual or partnership that donates or sells eligible equipment or that donates, sells or licenses eligible learning technology to it, stating that the equipment or technology is eligible equipment or eligible learning technology for the purposes of this section. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Same

(6)  The certificate must be issued in a form and be given to the individual or partnership in a manner approved by the Provincial Minister. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Status of certificate

(7)  Unless otherwise directed by the Provincial Minister, the certificate forms part of the records and books of account required to be kept under subsection 230 (1) of the Federal Act by the eligible individual making the donation or sale or giving the licence. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Provincial Minister’s direction and order

(8)  If an eligible educational institution issues one or more incorrect certificates,

(a) the Provincial Minister may direct the educational institution to cease issuing certificates under this section; and

(b) the Provincial Minister may order that all or some of any equipment donated or sold to the institution or all or some of any technology donated, sold or licensed to the institution is not eligible equipment or eligible learning technology for the purposes of this section. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Revocation

(9)  The Provincial Minister may revoke a direction or order, or both, made under subsection (8) if he or she is satisfied that the eligible educational institution will comply with the directions with respect to the accuracy, form and content of certificates given under this section. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Conditions

(10)  The Provincial Minister may impose such conditions on the revocation of the direction and order under subsection (9) as he or she considers reasonable. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Effect of revocation

(11)  Upon the revocation of a direction and order, the equipment or technology that would have otherwise been eligible equipment or eligible learning technology is, to the extent approved by the Provincial Minister, eligible equipment or eligible learning technology for the purposes of this section and may be certified as such by the educational institution. 2000, c. 42, s. 56; 2004, c. 16, s. 3.

Definitions

(12)  In this section,

“eligible educational institution” means an educational institution that is an eligible educational institution for the purposes of section 13.5 of the Corporations Tax Act; (“établissement d’enseignement autorisé”)

“eligible equipment” means equipment that is eligible equipment for the purposes of section 13.5 of the Corporations Tax Act; (“matériel admissible”)

“eligible individual” means, in respect of a taxation year, an individual,

(a) who carries on business through a permanent establishment in Ontario in the taxation year, and

(b) who is not exempt from tax under section 6; (“particulier admissible”)

“eligible learning technology” means technology that is eligible learning technology for the purposes of section 13.5 of the Corporations Tax Act; (“technologie d’apprentissage admissible”)

“eligible partnership” means, in respect of a fiscal period, a partnership,

(a) that has one or more members, other than limited partners, who are eligible individuals for the taxation year in which the fiscal period ends, and

(b) that carries on business through a permanent establishment in Ontario in the fiscal period; (“société de personnes admissible”)

“notional price” means, in respect of eligible equipment that is donated or sold or eligible learning technology that is donated, sold or licensed in a taxation year to an eligible educational institution,

(a) the lowest amount that the individual would normally have charged in the year on a sale or licensing of the equipment or technology to a person dealing at arm’s length with the individual, within the meaning of section 251 of the Federal Act, if the individual carries on a business of selling eligible equipment or selling or licensing eligible learning technologies in the taxation year, or

(b) the cost to the individual of the equipment or technology, in any other case. (“prix théorique”) 2000, c. 42, s. 56; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 56](http://www.ontario.ca/laws/statute/S00042" \l "s56) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 9](http://www.ontario.ca/laws/statute/S04031" \l "sched19s9) - 1/01/2005

Equity in education tax credit

**8.4.2**  (1)  In this section,

“eligible child” means, in respect of a qualifying taxpayer, an individual who satisfies the rules prescribed by the regulations; (“enfant admissible”)

“eligible course of study” means an elementary or secondary school course of study,

(a) that is provided by an eligible independent school to a pupil enrolled in the school,

(b) that satisfies the rules prescribed by the regulations; (“programme d’études admissible”)

“eligible fees” means the amount determined under the rules prescribed by the regulations; (“frais admissibles”)

“eligible independent school” means a school that satisfies the rules prescribed by the regulations or a school that is designated by regulation as an eligible independent school; (“école indépendante admissible”)

“qualifying taxpayer” means, in respect of a taxation year, a person,

(a) who is an individual for the purposes of section 8,

(b) who is resident in Ontario on the last day of the taxation year, and

(c) who satisfies the rules prescribed by the regulations. (“contribuable admissible”) 2001, c. 8, s. 41; 2004, c. 16, s. 3.

Amount of tax credit

(2)  The amount of the equity in education tax credit in respect of an eligible child for a taxation year is the amount calculated using the formula,

A × B

in which,

“A” is the appropriate percentage for the taxation year as determined under subsection (3), and

“B” is the lesser of,

(a) the prescribed monthly amount for the taxation year or, if no amount is prescribed for the taxation year, the amount, not exceeding $7000, that is determined by multiplying $700 by the number of months in the taxation year in which the eligible child was enrolled in an eligible independent school as a full-time pupil and attending classes at the school in the taxation year in an eligible course of study, and

(b) the amount of eligible fees reasonably attributable to the taxation year that were paid by a qualifying taxpayer to an eligible independent school in respect of an eligible child who was enrolled in the school during the taxation year as a full-time pupil and attending classes at the school during the taxation year in an eligible course of study.

2001, c. 8, s. 41; 2004, c. 16, s. 3.

Appropriate percentage

(3)  For the purposes of “A” in subsection (2), the following is the appropriate percentage for the taxation year indicated:

1. For a taxation year that commences after December 31, 2001 and ends before January 1, 2003, 10 per cent.

2. Repealed: 2003, c. 7, s. 13 (1).

3. Repealed: 2003, c. 7, s. 13 (2).

4. Repealed: 2003, c. 7, s. 13 (2).

5. Repealed: 2003, c. 7, s. 13 (2).

2003, c. 5, s. 1; 2003, c. 7, s. 13; 2004, c. 16, s. 3.

Qualifying taxpayer’s share

(4)  The amount of a qualifying taxpayer’s share of the equity in education tax credit in respect of an eligible child for a taxation year is the amount of the credit determined under subsection (2) as apportioned in accordance with the rules prescribed by regulation. 2001, c. 8, s. 41; 2004, c. 16, s. 3.

Regulations

(5)  The Minister may make regulations,

(a) prescribing rules for the purposes of the definitions in subsection (1);

(b) designating particular schools as eligible independent schools for the purposes of the definition;

(c) defining terms used in this section that are not already defined in the Act;

(d) prescribing rules for the purposes of determining a qualifying taxpayer’s share of an equity in education tax credit under subsection (4). 2001, c. 8, s. 41; 2004, c. 16, s. 3.

Same, eligible independent schools

(6)  A regulation prescribing rules for the purposes of the definition of “eligible independent school” may establish different classes of schools and prescribe different rules for each class. 2001, c. 8, s. 41; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2001, c. 8, s. 41](http://www.ontario.ca/laws/statute/S01008" \l "s41) - 1/01/2002

[2003, c. 5, s. 1](http://www.ontario.ca/laws/statute/S03005" \l "s1) - 26/06/2003; [2003, c. 7, s. 13 (1)](http://www.ontario.ca/laws/statute/S03007" \l "s13s1) - 1/01/2003; [2003, c. 7, s. 13 (2)](http://www.ontario.ca/laws/statute/S03007" \l "s13s2) - 1/01/2004

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Ontario focused flow-through share tax credit

**8.4.3**  (1)  The amount of an eligible individual’s Ontario focused flow-through share tax credit for a taxation year for the purposes of subsection 8 (15.6) is the sum of all amounts, each of which is an amount equal to five per cent of the amount of the individual’s eligible Ontario exploration expenditures for the year in respect of an Ontario focused flow-through share that was issued by a mining exploration company and acquired by the eligible individual pursuant to an agreement made after October 17, 2000. 2001, c. 23, s. 132; 2004, c. 16, s. 3.

Eligible Ontario exploration expenditures

(2)  The amount of an individual’s eligible Ontario exploration expenditures for a year in respect of an Ontario focused flow-through share is the amount that would be the individual’s flow-through mining expenditure in respect of the share for the taxation year, as determined under the definition of that term in subsection 127 (9) of the Federal Act, if,

(a) the reference to “Canada” in paragraph (f) of the definition of “Canadian exploration expense” in subsection 66.1 (6) of the Federal Act, as that definition applies for the purpose of the definition of “flow-through mining expenditure” in subsection 127 (9) of that Act, were read as a reference to “Ontario”;

(b) the amount of the individual’s flow-through mining expenditure for the taxation year were reduced by the amount of any government assistance or non-government assistance (other than any investment tax credit under subsection 127 (9) of the Federal Act) in respect of expenses included in the individual’s flow-through mining expenditure for the year that, at the time of the filing of the individual’s return of income for the year, the individual has received, is entitled to receive or can reasonably be expected to receive;

(c) paragraph (a) of the definition of “flow-through mining expenditure” in subsection 127 (9) of the Federal Act were read without reference to the words “and before 2004”; and

(d) the definition of “flow-through mining expenditure” in subsection 127 (9) of the Federal Act were read without reference to paragraph (e). 2001, c. 23, s. 132; 2004, c. 16, s. 3.

Application for tax credit

(3)  No eligible individual may claim a tax credit under this section in respect of an Ontario focused flow-through share unless he or she,

(a) makes an application in the return required for the year under this Act;

(b) obtains a certificate in a form approved by the Minister from the mining exploration company that issued the share, setting out the amount of Canadian exploration expenditures renounced by the company in the taxation year to the holder of the share; and

(c) submits the application and certificate with the tax return required to be filed by the eligible individual under this Act for the taxation year for which the individual claims the tax credit. 2001, c. 23, s. 132; 2004, c. 16, s. 3.

Definitions

(4)  In this section,

“eligible individual” means, in respect of a taxation year, an individual other than a trust who is resident in Ontario on the last day of the year and subject to tax under this Act throughout the year; (“particulier admissible”)

“mining exploration company” means, in respect of a share issued by it, a corporation,

(a) that has a permanent establishment in Ontario at the time any expenditures are incurred that are renounced to the holder of the share, and

(b) that is a principal-business corporation as defined in subsection 66 (15) of the Federal Act; (“compagnie d’exploration minière”)

“Ontario focused flow-through share” means a flow-through share, as defined in subsection 66 (15) of the Federal Act. (“action accréditive ciblée de l’Ontario”) 2001, c. 23, s. 132; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2001, c. 23, s. 132](http://www.ontario.ca/laws/statute/S01023" \l "s132) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Ontario school bus safety tax credit

**8.4.4**  (1)  The amount of an eligible individual’s Ontario school bus safety tax credit for a taxation year is the amount equal to 5 per cent of the individual’s qualifying expenditures under this section for the taxation year. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Eligible individual

(2)  For the purposes of this section, an individual is an eligible individual in respect of a taxation year if he or she,

(a) carries on business through a permanent establishment in Ontario in the taxation year; and

(b) is not exempt from tax under section 6. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Qualifying expenditures under this section

(3)  The amount of an eligible individual’s qualifying expenditures under this section for a taxation year is the total of all amounts each of which is the capital cost to the individual of an eligible school bus acquired by the individual in the taxation year. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Eligible school bus

(4)  A vehicle acquired by an eligible individual is an eligible school bus if the following conditions are satisfied:

1. The vehicle must be a school bus as defined in subsection 175 (1) of the Highway Traffic Act.

2. The vehicle must meet the requirements of sections 1 and 3 of Regulation 612 of the Revised Regulations of Ontario, 1990 (“School Buses”) made under that Act and it must conform to Canadian Standards Association Standard D250-1998 (“School Buses”).

3. The individual must have acquired the vehicle after June 17, 2002 and before January 1, 2006.

4. The vehicle must not have been used before the individual acquired it.

5. The vehicle must be used by the individual for at least 36 months after acquiring it. It must be used throughout that period for the primary purpose of transporting children in Ontario or transporting adults with a developmental disability in Ontario.

6. For the purposes of the Federal Act, the individual must include the capital cost of the vehicle in class 10 of Schedule II to the regulations made under that Act. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Partnerships

(5)  If an eligible individual is a member of a partnership at the end of a taxation year and if the partnership incurs, in a fiscal period of the partnership that ends in the taxation year, a capital cost in respect of the acquisition of an eligible school bus that would qualify for the Ontario school bus safety tax credit if the bus had been acquired by an eligible individual, the eligible individual who is the member of the partnership may include, in determining the amount of his or her Ontario school bus safety tax credit, that portion of the capital cost of the bus that may reasonably be attributed to him or her. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Limited partner

(6)  Subsection (5) does not apply if the eligible individual is a limited partner in the partnership. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Penalty

(7)  An eligible individual is liable to pay a penalty equal to the amount calculated under subsection (8) if, within 36 months after an eligible school bus is acquired, the individual or a partnership in which the individual is a member disposes of the bus or begins to use it for a primary purpose other than transporting children in Ontario or transporting adults with a developmental disability in Ontario. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

Amount of penalty

(8)  The amount of the penalty under subsection (7) is calculated using the formula,

A × [(1095 – B) / 1095]

where,

“A” is 0.05 multiplied by the amount of the capital cost of the eligible school bus that the eligible individual included in determining the amount of his or her Ontario school bus safety tax credit for a taxation year, and

“B” is the number of days that the eligible individual or the partnership in which the individual is a member owned the eligible school bus before disposing of it or before beginning to use it for a primary purpose other than transporting children in Ontario or transporting adults with a developmental disability in Ontario.

2002, c. 22, s. 110; 2004, c. 16, s. 3.

Exception

(9)  Subsection (7) does not apply in respect of the disposition of an eligible school bus by an eligible individual or by a partnership in which the eligible individual is a member,

(a) if the individual or partnership disposes of the bus in connection with a disposition by the individual or partnership of all or substantially all of the business in which the bus was used, and the person acquiring the business continues after the disposition to carry on the business in Ontario;

(b) if the individual is bankrupt, is in receivership or is insolvent and the bus is disposed of in the course of the disposition of the assets of the individual’s business; or

(c) if the individual disposes of the bus to a corporation in a transfer to which subsection 85 (1) of the Federal Act applies, or disposes of the bus to a partnership in a transfer to which subsection 97 (2) of the Federal Act applies. 2002, c. 22, s. 110; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2002, c. 22, s. 110](http://www.ontario.ca/laws/statute/S02022" \l "s110) - 9/12/2002

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Apprenticeship training tax credit

**8.4.5**(1)  The amount of an eligible employer’s apprenticeship training tax credit for a taxation year is the total of all amounts each of which is calculated under subsection (3) in respect of the employer’s eligible expenditures under this section for the taxation year for each apprentice employed in a qualifying apprenticeship. 2004, c. 31, Sched. 19, s. 10.

Eligible employer

(2)  For the purposes of this section, an individual is an eligible employer in respect of a taxation year if he or she,

(a) carries on business through a permanent establishment in Ontario in the taxation year; and

(b) is not exempt from tax under section 6. 2004, c. 31, Sched. 19, s. 10.

Calculation of credit

(3)  The amount referred to in subsection (1) in respect of an eligible employer’s eligible expenditures for a taxation year for an apprentice employed in a qualifying apprenticeship is the total of “A” and “B” where,

“A” is the lesser of,

(a) the product obtained by multiplying the employer’s specified percentage for the taxation year by the employer’s eligible expenditures made during the taxation year for the apprentice employed in the qualifying apprenticeship, and

(b) the amount calculated using the formula,

$5,000 × C/D

in which,

“C” is the total number of days in the taxation year that the apprentice was employed by the employer as an apprentice in a qualifying apprenticeship and that were,

(a) after May 18, 2004 and before January 1, 2015, and

(b) during the first 36 months the apprentice was in the apprenticeship program, and

“D” is 365 days or, if the taxation year includes February 29, 366 days, and

“B” is the amount calculated by multiplying the amount of government assistance repaid by the employer in the taxation year by the employer’s specified percentage for the taxation year in which the government assistance was received, to the extent that the repayment does not exceed the amount of the government assistance previously received by the employer in respect of the qualifying apprenticeship that,

(a) has not been repaid in a prior taxation year, and

(b) can reasonably be considered to have reduced the amount of the apprenticeship training tax credit that would otherwise have been allowed to the employer under subsection 8 (16.1) in respect of the qualifying apprenticeship.

2004, c. 31, Sched. 19, s. 10; 2005, c. 31, Sched. 11, s. 7 (1); 2007, c. 7, Sched. 17, s. 2 (1).

Specified percentage

(4)  An employer’s specified percentage for a taxation year is the following:

1. 25 per cent if the total of all salaries or wages paid by the employer in the previous taxation year is $600,000 or more.

2. The percentage determined under subsection (5) if the total of all salaries or wages paid by the employer in the previous taxation year is greater than $400,000 but less than $600,000.

3. 30 per cent in any other case. 2004, c. 31, Sched. 19, s. 10.

Same

(5)  The percentage referred to in paragraph 2 of subsection (4) is calculated by adding 25 per cent and the percentage calculated using the formula,

5% × [1 – (E/200,000)]

in which,

“E” is the total amount of salaries and wages paid by the employer in the previous taxation year that is in excess of $400,000.

2004, c. 31, Sched. 19, s. 10.

Qualifying apprenticeship

(6)  For the purposes of this section, a qualifying apprenticeship is an apprenticeship that would be a qualifying apprenticeship for the purposes of section 43.13 of the Corporations Tax Act if the employer of the apprentice were a corporation rather than an individual. 2004, c. 31, Sched. 19, s. 10.

End of apprenticeship

(7)  For the purposes of this section, a qualifying apprenticeship shall be deemed to end on the earlier of the date on which the apprentice is entitled to receive the appropriate certificate under the Apprenticeship and Certification Act, 1998 or the Trades Qualification and Apprenticeship Act or the date, if any, on which the training agreement or contract of apprenticeship is cancelled by the Ministry of Training, Colleges and Universities. 2004, c. 31, Sched. 19, s. 10.

Eligible expenditure

(8)  Subject to subsections (10) and (11), each of the following amounts paid by an employer in respect of a qualifying apprenticeship is an eligible expenditure for the taxation year:

1. An amount paid to an apprentice in a qualifying apprenticeship if,

i. the amount is on account of salary or wages paid to an employee who reports for work at a permanent establishment of the employer in Ontario,

ii. the amount is required by subdivision a of Division B of Part I of the Federal Act to be included in the apprentice’s income from a source that is an office or employment,

iii. the amount is in respect of a qualifying apprenticeship and is paid or payable for services performed by the apprentice for the employer after May 18, 2004 and before January 1, 2015, and

iv. the amount relates to services provided by the apprentice to the employer during the first 36 months of the apprenticeship program and does not relate to services performed before the commencement or after the end of the apprenticeship program.

2. A fee paid to an employment agency in consideration for the provision of services performed by the apprentice in the qualifying apprenticeship if,

i. the services are performed by the apprentice primarily at a permanent establishment of the employer in Ontario,

ii. the fee is paid or payable for services performed by the apprentice for the employer after May 18, 2004 and before January 1, 2015, and

iii. the fee relates to services performed by the apprentice for the employer during the first 36 months of the apprenticeship program and does not relate to services performed before the commencement or after the end of the apprenticeship program. 2005, c. 31, Sched. 11, s. 7 (2); 2007, c. 7, Sched. 17, s. 2 (2).

Same

(9)  Subject to subsections (10) and (11), such other expenditures as may be prescribed are eligible expenditures of an employer for a taxation year if the prescribed conditions are satisfied. 2004, c. 31, Sched. 19, s. 10.

Exception

(10)  An expenditure made by an employer in respect of a qualifying apprenticeship is not an eligible expenditure,

(a) if the apprentice serves the apprenticeship with a person other than the employer; or

(b) to the extent that the amount of the expenditure would not be considered to be reasonable in the circumstances by persons dealing with each other at arm’s length. 2004, c. 31, Sched. 19, s. 10.

Total eligible expenditures

(11)  The total of eligible expenditures made by an employer in respect of a qualifying apprenticeship in a taxation year is calculated using the formula,

F – G

in which,

“F” is the sum of the amounts determined under subsections (8) and (9), and

“G” is the amount of all government assistance, if any, that the employer has received, is entitled to receive or may reasonably be expected to be entitled to receive in respect of the eligible expenditures at the time the employer’s return for the taxation year is required to be delivered under this Act.

2004, c. 31, Sched. 19, s. 10.

Employment agencies

(11.1)  If an employer pays a fee to an employment agency in respect of a qualifying apprenticeship that is an eligible expenditure of the employer for a taxation year,

(a) the employer is deemed to employ the apprentice for the purposes of the definition of “C” in the definition of “A” in subsection (3), and the employment agency is deemed not to employ the apprentice; and

(b) the apprentice is deemed to serve the apprenticeship with the employer for the purposes of clause (10) (a), and not with the employment agency. 2005, c. 31, Sched. 11, s. 7 (3).

Limitation

(11.2)  If an amount paid by an employer is an eligible expenditure under this section and is also an eligible expenditure for the purposes of section 8.2, the employer may include the amount in computing the amount of a tax credit under this section or in computing the amount of a tax credit under section 8.2 and not in computing both tax credits. 2005, c. 31, Sched. 11, s. 7 (4).

Partnerships

(12)  If an eligible employer is a member of a partnership at the end of a taxation year and if the partnership incurs, in a fiscal period of the partnership that ends in the taxation year, an expenditure that would be included in computing the apprenticeship training tax credit of the employer if the expenditure had been incurred by the employer, the eligible employer who is a member of the partnership may include, in determining the amount of his or her apprenticeship training tax credit, that portion of the expenditure that may reasonably be attributed to him or her. 2004, c. 31, Sched. 19, s. 10.

Limited partner

(13)  Subsection (12) does not apply if the eligible employer is a limited partner in the partnership. 2004, c. 31, Sched. 19, s. 10.

Definition

(14)  In this section,

“government assistance” means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax or investment allowance, but does not include an apprenticeship training tax credit under subsection 8 (16.1) or any other amount that may be prescribed. 2004, c. 31, Sched. 19, s. 10.

**Section Amendments with date in force (d/m/y)**

[2004, c. 31, Sched. 19, s. 10](http://www.ontario.ca/laws/statute/S04031" \l "sched19s10) - 18/05/2004

[2005, c. 31, Sched. 11, s. 7 (1-3)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s7s1) - 16/12/2004; [2005, c. 31, Sched. 11, s. 7 (4)](http://www.ontario.ca/laws/statute/S05031" \l "sched11s7s4) - 15/12/2005

[2007, c. 7, Sched. 17, s. 2 (1, 2)](http://www.ontario.ca/laws/statute/S07007" \l "sched17s2s1) - 17/05/2007

[2009, c. 22, s. 98](http://www.ontario.ca/laws/statute/S09022" \l "s98) - no effect - see [Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*](http://www.ontario.ca/laws/public-statute-provisions-repealed-under-section-101-legislation-act-2006) - 31/12/2019

Ontario child care supplement for working families

Interpretation

**8.5**  (1)  In this section,

“adjusted earned income” of an individual for a base taxation year is the total of the earned income for the base taxation year of the individual and of the person who is the individual’s cohabiting spouse or common-law partner for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“revenu gagné modifié”)

“adjusted income” means, in respect of an individual for a base taxation year, the amount that is his or her adjusted income for the year for the purposes of subdivision a.1 of Division E of the Federal Act; (“revenu modifié”)

“base taxation year”, in relation to a month, has the meaning given to that expression by section 122.6 of the Federal Act; (“année de base”)

“benefit year” means the period from July 1 of a year to June 30 of the following year; (“année du calcul des prestations”)

“Canada Child Tax Benefit” means the Canada Child Tax Benefit under subdivision a.1 of Division E of Part I of the Federal Act; (“prestation fiscale canadienne pour enfants”)

“child care expense” means a child care expense as defined in subsection 63 (3) of the Federal Act for which a receipt described in subsection 63 (1) of that Act is issued; (“frais de garde d’enfants”)

“child care services” means the following services:

1. The provision of licensed child care under the Child Care and Early Years Act, 2014.

2. The provision of funding to participants in employment assistance activities under the Ontario Works Act, 1997, for the purpose described in paragraph 7 of subsection 66.1 (2) of Regulation 262 of the Revised Regulations of Ontario, 1990 (General) made under the Day Nurseries Act, as it read immediately before the repeal of the Day Nurseries Act came into force; (“services de garde d’enfants”)

“child care subsidy” means financial assistance that meets the requirements described in subsection (2); (“subvention pour frais de garde d’enfants”)

“cohabiting spouse or common-law partner” means, in respect of an individual at any time, the person who, at that time, is the individual’s cohabiting spouse or common-law partner for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“conjoint visé”)

“designated percentage” means, in respect of an individual for a month,

(a) if the individual has no qualified dependants at the beginning of the month, nil,

(b) if the individual has one qualified dependant at the beginning of the month, 20 per cent if the month ends before July 1, 1999 or 21 per cent if the month begins after June 30, 1999,

(c) if the individual has two qualified dependants at the beginning of the month, 40 per cent if the month ends before July 1, 1999 or 42 per cent if the month begins after June 30, 1999, and

(d) if the individual has three or more qualified dependants at the beginning of the month, 60 per cent if the month ends before July 1, 1999 or 63 per cent if the month begins after June 30, 1999; (“pourcentage désigné”)

“earned income” has the meaning given to that expression by subsection 63 (3) of the Federal Act; (“revenu gagné”)

“eligible individual” means, in respect of a qualified dependant at any time, the individual who, at that time, is an eligible individual in respect of the dependant for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“particulier admissible”)

“qualified dependant” means, with respect to a month, an individual born before July 1, 2009 who has not attained the age of seven years before the first day of the month and who is a qualified dependant for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“personne à charge admissible”)

“qualifying child care expenses” means, for a base taxation year in relation to a month, all child care expenses claimed by the individual or the individual’s cohabiting spouse or common-law partner that are deductible and allowed as a deduction for the base taxation year under section 63 of the Federal Act; (“frais de garde d’enfants admissibles”)

“return of income”, filed by an individual for a taxation year, means the return of income filed by the individual for the taxation year for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“déclaration de revenu”)

“shared-custody parent” in respect of a qualified dependant, means a shared custody parent as defined in section 122.6 of the Federal Act; (“parent ayant la garde partagée”)

“single parent” means an individual who has one or more qualified dependants in respect of whom the individual is an eligible individual and who does not have a cohabiting spouse or common-law partner. (“chef de famille monoparentale”) 1998, c. 34, s. 74; 1999, c. 9, s. 122 (1); 2000, c. 10, s. 16 (1); 2001, c. 23, s. 133 (1, 2); 2004, c. 16, s. 3; 2006, c. 33, Sched. N, s. 5 (1, 2); 2007, c. 7, Sched. 17, s. 3 (1); 2009, c. 18, Sched. 13, s. 1 (1); 2011, c. 9, Sched. 20, s. 1 (1); 2014, c. 11, Sched. 6, s. 5 (1).

Child care subsidy

(2)  Financial assistance that meets the following requirements constitutes a child care subsidy for the purposes of the Act:

1. It is provided for the benefit of an eligible individual or his or her cohabiting spouse or common-law partner who is a person in need as defined in section 1 of Regulation 262 of the Revised Regulations of Ontario, 1990, made under the Day Nurseries Act.

2. It is provided to pay for the costs of child care services for a qualified dependant of the individual or his or her cohabiting spouse or common-law partner.

3. It is provided by,

i. a service system manager under the Child Care and Early Years Act, 2014, or

ii. the Ministry of Education. 1998, c. 34, s. 74; 2001, c. 23, s. 133 (3); 2004, c. 16, s. 3; 2006, c. 33, Sched. N, s. 5 (3); 2014, c. 11, Sched. 6, s. 5 (2).

Eligible individual at the beginning of a month

(3)  An individual is an eligible individual in respect of a qualified dependant at the beginning of a particular month for the purposes of subsection (4) if,

(a) the individual is an eligible individual in respect of the qualified dependant at the beginning of the month;

(b) the individual has filed with the Minister no later than 11 months after the end of the month the notice referred to in subsection 122.62 (1) of the Federal Act; and

(c) the individual receives a Canada Child Tax Benefit in respect of the qualified dependant for the month. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Deemed overpayment

(4)  An overpayment on account of an individual’s liability for tax under this Act for a taxation year shall be deemed to arise during a month after June 1998 if,

(a) the individual is an eligible individual at the beginning of the month in respect of one or more qualified dependants;

(b) the individual is resident in Ontario on the first day of the month and on the last day of the immediately preceding month;

(c) an application for the supplement for the benefit year, or other period ending on June 30 that includes the month, containing the information and signed by the persons required by the Provincial Minister under subsection (8), is completed and filed not more than 18 months after the end of the month by the individual; and

(d) the individual and, if required by the Provincial Minister, the person who is the individual’s cohabiting spouse or common-law partner for the purposes of subdivision a.1 of Division E of Part I of the Federal Act, if the individual has such a cohabiting spouse or common-law partner, have each filed a return of income for the base taxation year in relation to the month. 1998, c. 34, s. 74; 2001, c. 23, s. 133 (4); 2004, c. 16, s. 3.

Amount of deemed overpayment

(5)  The overpayment of tax, if any, referred to in subsection (4) that is deemed to arise during a month on account of an individual’s liability under this Act for a taxation year in respect of a qualified dependant is equal to the amount determined in accordance with the formula,

(A – B) / (12 × C) – D

in which,

“A” is the amount that is the lesser of “X” and “Y”, as defined in subsection (5.1),

“B” is 8 per cent of the amount, if any, by which the individual’s adjusted income for the base taxation year in relation to the month exceeds $20,000,

“C” is the number of qualified dependants in respect of whom the individual is an eligible individual at the beginning of the month, and

“D” is,

(a) if the month commences before July 1, 2008, nil, or

(b) if the month commences after June 30, 2008, the lesser of,

(i) the amount to which the individual is entitled for the month under section 8.6.2 of this Act or under section 104 of the Taxation Act, 2007, as the case may be, divided by the number of qualified dependants as defined in subsection 8.6.2 (1) of this Act or subsection 104 (1) of the Taxation Act, 2007, as the case may be, in respect of whom the individual is an eligible individual at the beginning of the month, and

(ii) the amount that would otherwise be determined for the month under this subsection if “D” were nil for the month.

2007, c. 7, Sched. 17, s. 3 (2); 2009, c. 18, Sched. 13, s. 1 (2); 2011, c. 9, Sched. 20, s. 1 (2).

Same

(5.1)  For the purposes of subsection (5),

“X” is the amount equal to the greater of,

(a) the amount determined by multiplying the individual’s designated percentage for the month by the amount by which the individual’s adjusted earned income for the base taxation year in relation to the month exceeds $5,000, and

(b) 50 per cent of the individual’s qualifying child care expenses for the base taxation year in relation to the month for persons who are qualified dependants of the individual for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; and

“Y” is the amount obtained by multiplying the number of qualified dependants in respect of whom the individual was an eligible individual at the beginning of the month by,

(a) $1,020 if the month ends before July 1, 1999,

(b) $1,100 if the individual,

(i) is not a single parent at the beginning of the month and the month begins after June 30, 1999, or

(ii) is a single parent at the beginning of the month and the month begins after June 30, 1999 and ends before July 1, 2000, or

(c) $1,310 if the individual is a single parent at the beginning of the month and the month begins after June 30, 2000. 2000, c. 10, s. 16 (3); 2004, c. 16, s. 3.

Special payment, 2001

(5.2)  The overpayment on account of an individual’s liability for tax under this Act for the 2001 taxation year in respect of a qualified dependant shall be deemed for the purposes of this section to include $100 in addition to the amount otherwise determined for the year under subsection (5), if the overpayment of tax determined under that subsection during the month ending on November 30, 2001 on account of the individual’s liability for tax under this Act in respect of the qualified dependant exceeds zero. 2001, c. 23, s. 133 (5); 2004, c. 16, s. 3.

If in receipt of subsidy

(6)  Despite subsection (5), if the individual or his or her cohabiting spouse or common-law partner receives the benefit of a child care subsidy in respect of a qualified dependant in a particular month of the benefit year, the overpayment of tax that is deemed to arise during the month in respect of the qualified dependant shall be deemed to be the amount equal to the lesser of,

(a) the amount of the overpayment that would otherwise be deemed to arise for the month under subsection (5) in respect of the qualified dependant; and

(b) the amount equal to half of the total child care expenses paid for the month by the individual or his or her cohabiting spouse or common-law partner in respect of the qualified dependant. 1998, c. 34, s. 74; 2001, c. 23, s. 133 (6); 2004, c. 16, s. 3.

Same, shared-custody parents

(6.1)  Despite subsections (5) and (6), if an eligible individual is a shared-custody parent in respect of one or more qualified dependants for a month after June 2011, the amount of the overpayment of tax that is deemed to arise during the month on account of the individual’s liability under this Actis equal to the amount determined by the formula,

(E + F)/2

where,

“E” is the total of all amounts determined for the month in respect of the individual under subsection (5) or (6), as the case may be, calculated without reference to this subsection, and

“F” is the total of all amounts determined for the month in respect of the individual under subsection (5) or (6), as the case may be, calculated without reference to this subsection and calculated as if the individual were not an eligible individual in respect of any qualified dependants in respect of whom the individual is a shared-custody parent.

2011, c. 9, Sched. 20, s. 1 (3).

Minimum deemed overpayment

(7)  Despite subsections (5), (6) and (6.1), if the overpayment that is deemed to arise under this section for a benefit year in respect of an individual is greater than zero but less than $10, the individual’s total overpayment for the benefit year is deemed to be $10. 1998, c. 34, s. 74; 2004, c. 16, s. 3; 2011, c. 9, Sched. 20, s. 1 (4).

Application for supplement

(8)  For the purposes of determining the amount of an overpayment, if any, that is deemed to arise under this section, an application in respect of each benefit year, or other period ending on June 30 to which the application relates, shall be filed with the Provincial Minister in the manner and form approved by the Provincial Minister, containing the information and signed by the persons required by the Provincial Minister. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Consideration of application

(9)  On receiving an application under this section, the Provincial Minister shall consider the application and,

(a) determine the total amount, if any, of the overpayment that is deemed to arise under this section during each month in the benefit year, or during each month in the period to which the application relates; or

(b) determine that no overpayment is deemed to arise under this section for the benefit year or for the period to which the application relates. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Notice of entitlement

(10)  After making a determination under subsection (9), the Provincial Minister shall send to the individual a notice of entitlement setting out whether an overpayment is deemed to arise under this section in respect of the individual, the amount of any overpayment to which the individual is entitled and the basis on which the Provincial Minister’s determination is made, and shall notify the individual of his or her right to object to the notice of entitlement. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Payment of supplement

(11)  Subject to subsections (11.1), (12), (13) and (18), the Provincial Minister shall pay to an eligible individual the total amount of any overpayment to which the eligible individual is entitled for a benefit year under this section by means of monthly payments. 1998, c. 34, s. 74; 2001, c. 23, s. 133 (7); 2004, c. 16, s. 3.

Payment of additional amount for 2001

(11.1)  The Provincial Minister may pay to an eligible individual the total of all additional amounts to which the individual is entitled under subsection (5.2) in respect of qualified dependants by means of one lump sum payment, separate from and in addition to any other payments under this section. 2001, c. 23, s. 133 (8); 2004, c. 16, s. 3.

Exception for 1998

(12)  Payment of an overpayment that is deemed to arise during any month before 1999 may be made after November 1998. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Lump sum annual payment

(13)  The Provincial Minister may pay the total amount of any overpayment to which an eligible individual is entitled for a benefit year under this section by means of one lump sum payment if,

(a) the total amount of the overpayment for the benefit year is not more than $10 or is deemed under this section to be $10; or

(b) the overpayment during each month of the benefit year is less than $10. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Notification of change

(14)  Every eligible individual shall notify the Provincial Minister in a form and manner satisfactory to the Provincial Minister of the occurrence of any of the following events, and shall provide the following information as part of the notification:

1. The event: the individual or his or her cohabiting spouse or common-law partner begins to receive the benefit of a child care subsidy. The information: for the first month in which he or she receives the benefit, the amount of the child care expenses paid by him or her for the care of the qualified dependant in respect of whom the subsidy is received.

2. The event: the individual or his or her cohabiting spouse or common-law partner ceases to receive the benefit of a child care subsidy. The information: the first month in which he or she did not receive the benefit.

3. The event: the amount of child care expenses paid by the individual or his or her cohabiting spouse or common-law partner for a particular month is different from the monthly amount last reported to the Provincial Minister for the care of a qualified dependant in respect of whom the benefit of a child care subsidy is received. The information: the amount of the child care expenses paid for the particular month for that dependant. 1998, c. 34, s. 74; 2001, c. 23, s. 133 (9); 2004, c. 16, s. 3.

Notification and election on change

(15)  A notification given under subsection 122.62 (4) of the Federal Act or an election made under any of subsections 122.62 (5) to (7) of that Act shall also be considered to be a notification or election given or made for the purposes of this section, except that an election shall not be considered to be an election for the purposes of this Act if the result of it would be a reduction in the amount of the overpayment of tax deemed under this section to arise during the remaining months in the benefit year to which the election relates. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Notice of entitlement in event of change

(16)  The Provincial Minister shall send to an individual a notice of entitlement whenever the Provincial Minister becomes aware,

(a) that a change has occurred that affects the amount of the individual’s overpayment of tax that is deemed to arise under this section for a benefit year; or

(b) that the individual has received an amount to which he or she is not entitled under this section. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Same

(17)  The notice of entitlement shall contain,

(a) the information required by subsection (10);

(b) the individual’s rights to object to the Provincial Minister’s determination; and

(c) the amount, if any, the individual is required to repay to the Provincial Minister under subsection (25). 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Payment of additional supplement

(18)  The Provincial Minister may pay to an eligible individual an additional amount under this section for a benefit year, if the amount is not less than $10 and if,

(a) the individual gives the notification and provides the information required under subsection (14) within four years of the day the original notice of entitlement for the benefit year under subsection (10) is mailed to the individual, in the case where the individual is entitled to the additional amount as a result of an event described in subsection (14); or

(b) the Provincial Minister receives information from the Department of National Revenue establishing that the individual is entitled to the additional amount, in any other case. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Person acting for individual

(19)  Subsection 159 (1) of the Federal Act applies with necessary modifications for the purposes of this section and section 8.6. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Part-year residents

(20)  For the purposes of this section, unless an individual is resident in Canada throughout a taxation year,

(a) the individual’s income for the year shall be deemed to be equal to the amount that would have been the individual’s income for the year had the individual been resident in Canada throughout the year; and

(b) the individual’s earned income for the year shall not exceed that portion of the amount that would, but for this clause, be the individual’s earned income that is included by virtue of section 114 of the Federal Act or subsection 115 (1) of that Act in computing the individual’s taxable income or taxable income earned in Canada, as the case may be, for the year. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Bankruptcy

(21)  For the purposes of this section, if an individual becomes bankrupt in a taxation year,

(a) the individual’s earned income for the year shall include the individual’s earned income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy;

(b) the individual’s income for the year shall include the individual’s income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy; and

(c) the total of all amounts deducted under section 63 of the Federal Act in computing the individual’s income for the year shall include the amount deducted under that section for the individual’s taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Provincial Minister’s discretion

(22)  Despite any provision of this section other than subsections (35) and (36), the Provincial Minister may pay to an individual under this section an amount to which the individual would otherwise not be entitled, or an additional amount in excess of the amount to which the individual would otherwise be entitled, and may determine the amount or additional amount if the Provincial Minister considers that the payment should be granted for the relief of financial hardship. 1998, c. 34, s. 74; 2004, c. 16, s. 3; 2014, c. 7, Sched. 13, s. 1 (1).

Provincial Minister’s decision final

(23)  A decision by the Provincial Minister under subsection (22) is final and not subject to review in respect of whether to pay an amount or additional amount and the amount of the payment. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Amount not to be charged

(24)  An amount deemed by this section to be an overpayment of tax on account of an individual’s liability under this Act for a taxation year,

(a) cannot be assigned, charged, attached or given as security and any transaction purporting to assign, charge, attach or give it as security is void;

(b) cannot be garnished; and

(c) cannot be retained by way of deduction or set-off under the Financial Administration Act. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Repayment

(25)  If an individual receives under this section an amount to which the individual is not entitled or that is in excess of the individual’s entitlement under this section, the individual is liable to repay the amount to the Provincial Minister. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Recovery of amount

(26)  Subject to subsection (27), an amount repayable under subsection (25) that has not been repaid to the Provincial Minister,

(a) constitutes a debt to the Crown in right of Ontario and may be recovered by way of deduction, set-off or in any court of competent jurisdiction in proceedings commenced at any time or in any other manner provided by this Act; and

(b) shall be deemed for the purposes of sections 31 to 36 to be tax payable under this Act. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Time limit

(27)  Subject to subsections (28) and (29), an individual ceases to be liable to repay an amount under subsection (25) on the day that is four years after the date of mailing of the original notice of entitlement for the benefit year to which the amount or excess amount relates, unless before that day the Provincial Minister has sent a notice of entitlement under subsection (16) setting out the amount required to be repaid. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Exception

(28)  Subsection (27) does not apply if the liability to repay the amount under subsection (25) arises by reason of a change in an amount determined under the Federal Act. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Same

(29)  Subsection (27) does not apply,

(a) if the individual or another person who filed an application or provided information under this section or section 8.6 made any misrepresentation or omission that is attributable to neglect, carelessness or wilful default or committed any fraud in filing a return under this Act or the Federal Act, or in filing an application or providing information under this section or section 8.6; and

(b) if it is reasonable to believe that part or all of the amount repayable under subsection (25) would not have been paid by the Provincial Minister in default of the misrepresentation, omission or fraud. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Cohabiting spouse or common-law partner liable

(30)  If a person was the cohabiting spouse or common-law partner of an individual on the day the individual filed an application under this section, the individual and the person are jointly and severally liable to repay any amount that the individual is required to repay under this section in respect of the time period to which the application relates, if the person was the individual’s cohabiting spouse or common-law partner at the time the amount was paid to the individual. 2001, c. 23, s. 133 (10); 2004, c. 16, s. 3.

Special circumstances

(31)  Despite subsection (25), if because of special circumstances the Provincial Minister, in his or her discretion, considers it unreasonable to demand repayment of the whole amount due under that subsection, the Provincial Minister may accept such amount as he or she considers appropriate in the circumstances. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Powers and duties not transferred

(32)  In the application of sections 31 to 36 to recover amounts referred to in subsection (25), all references to “Minister” and “Provincial Minister” shall be read as references to “Minister of Finance”, and subsection 31 (4) shall not apply. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Notices

(33)  Any notice or other document sent by the Provincial Minister under this section or section 8.6 by ordinary letter mail or its equivalent shall be deemed to be received by the person to whom it was sent on the day it is mailed. 1998, c. 34, s. 74; 2004, c. 16, s. 3; 2009, c. 33, Sched. 16, s. 6 (1).

Money appropriated by the Legislature

(33.1)  The money required for the purposes of this section shall be paid out of the money appropriated for those purposes by the Legislature. 2008, c. 7, Sched. I, s. 4.

Regulations

(34)  The Lieutenant Governor in Council may make regulations prescribing, with or without modifications, additional provisions of the Federal Act that apply for the purposes of this section and the manner in which they apply. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Application deadline

(35)  Despite any other provision in this Act, the Provincial Minister shall not make a payment to an individual under this section and no individual is entitled to receive a payment under this section if the application referred to in clause (4) (c) is not filed before January 1, 2016. 2014, c. 7, Sched. 13, s. 1 (2).

Entitlement deadline

(36)  Despite any other provision in this Act, the Provincial Minister shall not make a payment to an individual under this section after December 31, 2016 and no individual is entitled to receive a payment under this section after that date unless the individual’s entitlement to the payment arose by reason of an objection to a determination made by the Provincial Minister under this section. 2014, c. 7, Sched. 13, s. 1 (2).

Regulations

(37)  The Provincial Minister may make regulations for the purposes of subsection (35) or (36) prescribing a date that is later than a date set out in those subsections. 2014, c. 7, Sched. 13, s. 1 (2).

Effect of regulation

(38)  If the Provincial Minister prescribes a later date under subsection (37), the prescribed date applies for the purposes of subsection (35) or (36) instead of the date it replaces. 2014, c. 7, Sched. 13, s. 1 (2).

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 74 - 1/07/1998; 1999, c. 9, s. 122 (1) - 1/07/1999

[2000, c. 10, s. 16 (2, 3)](http://www.ontario.ca/laws/statute/S00010" \l "s16s2) - 1/07/2000

[2001, c. 23, s. 133 (1-10)](http://www.ontario.ca/laws/statute/S01023" \l "s133s1) - 1/01/2001

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

[2006, c. 33, Sched. N, s. 5 (1)](http://www.ontario.ca/laws/statute/S06033" \l "schedns5s1) - 1/01/2006; [2006, c. 33, Sched. N, s. 5 (2, 3)](http://www.ontario.ca/laws/statute/S06033" \l "schedns5s2) - 20/12/2006

[2007, c. 7, Sched. 17, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S07007" \l "sched17s3s1) - 17/05/2007

[2008, c. 7, Sched. I, s. 4](http://www.ontario.ca/laws/statute/S08007" \l "schedis4) - 14/05/2008

[2009, c. 18, Sched. 13, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S09018" \l "sched13s1s1) - 1/01/2009; [2009, c. 33, Sched. 16, s. 6 (1)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s6s1) - 15/12/2009

[2011, c. 9, Sched. 20, s. 1 (1, 3, 4)](http://www.ontario.ca/laws/statute/S11009" \l "sched20s1s1) - 12/05/2011; [2011, c. 9, Sched. 20, s. 1 (2)](http://www.ontario.ca/laws/statute/S11009" \l "sched20s1s2) - 1/07/2008

[2014, c. 7, Sched. 13, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S14007" \l "sched13s1s1) - 24/07/2014; [2014, c. 11, Sched. 6, s. 5 (1, 2)](http://www.ontario.ca/laws/statute/S14011" \l "sched6s5s1) - 31/08/2015

[CTS 6 OC 14 - 3](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

Audit and inspection

**8.6**  (1)  Any person authorized by the Provincial Minister for any purpose related to the administration or enforcement of section 8.5 may at all reasonable times enter into any premises or place where any business, municipal government or child care is carried on, where any property is kept, where anything is done in connection with any business, municipal government or child care or where any books or records are kept or should be kept that contain information relevant in the administration of section 8.5 and,

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates to or may relate to the information that is or should be in the books or records, or that relates to or may relate to any amount taken into consideration in determining an amount under section 8.5 or the eligibility of any individual to receive an amount under section 8.5;

(b) examine any property, process or matter, an examination of which may, in the person’s opinion, assist in determining the accuracy of an application under section 8.5 or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any payment under section 8.5; and

(c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination, either orally or, if he or she so requires, in writing, on oath or by statutory declaration, and for that purpose, he or she may require the person to attend at the premises or place with him or her. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Audit and inspection

(1.1)  Any person authorized by the Provincial Minister for any purpose related to the administration or enforcement of section 8.7 or 8.9 may at all reasonable times enter into any premises or place where any business is carried on, where any property is kept, where anything is done in connection with any business or where any books or records are kept or should be kept that contain information relevant in the administration of that section and,

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates to or may relate to the information that is or should be in the books or records, or that relates to or may relate to any amount taken into consideration in determining an amount under that section or the eligibility of any individual to receive an amount under that section;

(b) examine any property, process or matter, an examination of which may, in the person’s opinion, assist in determining the accuracy of an application under that section or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any payment under that section; and

(c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination, either orally or, if he or she so requires, in writing, on oath or by statutory declaration, and for that purpose, he or she may require the person to attend at the premises or place with him or her. 2000, c. 42, s. 57 (1); 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 11 (1).

Demand for information

(2)  For any purpose related to the administration or enforcement of this section or section 8.5, 8.7 or 8.9, the Provincial Minister may require from any person, partnership, syndicate, trust, corporation, delivery agent under section 8.5 or other entity or from any partner, agent, member, director or officer of it, by registered letter, or by a demand served personally or delivered by a courier service, within such reasonable time as is stipulated in the registered letter or demand,

(a) any information or additional information or the production of books, letters, accounts, invoices, financial statements, computer programs or data files, or any other documents on paper or stored electronically; or

(b) a written statement, concerning any matter that may be relevant to the administration or enforcement of this Act or the regulations. 1998, c. 34, s. 74; 2000, c. 42, s. 57 (2); 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 11 (2).

Same

(3)  The Provincial Minister may require that a written statement referred to in clause (2) (b) be made by way of affidavit or statutory declaration. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Copies

(4)  Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Finance may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the Provincial Minister, or a person authorized by the Provincial Minister, to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Print-out admissible in evidence

(5)  If an application, return, document or any information has been received by the Provincial Minister on computer disk or other electronic medium, or by electronic filing under the Federal Act, a document, accompanied by the certificate of the Provincial Minister, or of a person authorized by the Provincial Minister, stating that the document is a print-out of the application, return, document or information received by the Provincial Minister and certifying that the information contained in the document is a true and accurate representation of the application, return, document or information received by the Provincial Minister, is admissible in evidence and shall have the same probative force as the original return, document or information would have had if it had been delivered in paper form. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Same

(6)  The Provincial Minister or a person authorized by the Provincial Minister may reproduce from original data stored electronically any document previously issued by the Provincial Minister and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Same

(7)  If the data contained on an application or other document received by the Provincial Minister from a person has been stored electronically by the Provincial Minister on computer disk or other electronic medium and the application or other document has been destroyed by a person so authorized by the Provincial Minister, a document, accompanied by the certificate of the Provincial Minister or of a person authorized by the Provincial Minister, stating that the document is a print-out of the data contained on the application or other document received and stored electronically by the Provincial Minister and certifying that the information contained in the document is a true and accurate representation of the data contained on the application or document delivered by the person, is admissible in evidence and shall have the same probative force as the original application or document would have had if it had been proved in the ordinary way. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

Administration of oaths

(8)  Declarations or affidavits in connection with applications delivered under section 8.5 or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. 1998, c. 34, s. 74; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 74 - 1/07/1998

[2000, c. 42, s. 57 (1, 2)](http://www.ontario.ca/laws/statute/S00042" \l "s57s1) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 11 (1, 2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s11s1) - 27/03/2003

**8.6.1**Repealed: R.S.O. 1990, c. I.2, s. 8.6.1 (17). (See: 2006, c. 18, s. 1).

**Section Amendments with date in force (d/m/y)**

R.S.O. 1990, c. I.2, s 8.6.1 (17) - 1/01/2008

[2006, c. 18, s. 1](http://www.ontario.ca/laws/statute/S06018" \l "s1) - 22/06/2006

Ontario child benefit

Definitions

**8.6.2**  (1)  In this section,

“adjusted income” of an individual for a taxation year means the individual’s adjusted income as determined for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“revenu modifié”)

“base taxation year”, when used in relation to a month, has the meaning assigned by section 122.6 of the Federal Act; (“année de base”)

“Canada child tax benefit” means the Canada child tax benefit under subdivision a.1 of Division E of Part I of the Federal Act; (“prestation fiscale canadienne pour enfants”)

“cohabiting spouse or common-law partner” means, in respect of an individual at any time, the person who, at that time, is the individual’s cohabiting spouse or common-law partner for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“conjoint ou conjoint de fait visé”)

“eligible individual” means, in respect of a qualified dependant, a person who is an eligible individual in respect of the dependant for the purposes of subdivision a.1 of Division E of Part I of the Federal Act; (“particulier admissible”)

“Ontario child benefit” in respect of an individual means an amount deemed under this section to be an overpayment by the individual on account of tax payable under this Act; (“prestation ontarienne pour enfants”)

“qualified dependant” has the meaning assigned by section 122.6 of the Federal Act; (“personne à charge admissible”)

“return of income” has the meaning assigned by section 122.6 of the Federal Act. (“déclaration de revenu”) 2007, c. 7, Sched. 17, s. 4.

Application of Federal Act

(2)  Paragraph 122.61 (3) (a) and subsections 122.61 (3.1) and (4), 122.62 (1), (2), (4), (5), (6) and (7), 152 (3.2), (3.3) and (4.2), 160.1 (2.1) and (3) and 164 (2.3) of the Federal Act apply for the purposes of this section as if a reference in any of those provisions to a provision of subdivision a.1 of Division E of Part I of the Federal Act were a reference to the corresponding provision of this section. 2007, c. 7, Sched. 17, s. 4; 2008, c. 7, Sched. I, s. 5 (1).

Deemed overpayment for taxation year

(3)  If an overpayment on account of an individual’s liability under this Act for a taxation year is deemed under subsection (4) or (5) to have arisen during a month beginning after June 30, 2007 in relation to which the year is the base taxation year, the Provincial Minister shall pay an Ontario child benefit to the individual in accordance with this section. 2007, c. 7, Sched. 17, s. 4.

Same

(4)  An overpayment on account of an individual’s liability under this Act for a taxation year is deemed to have arisen during the 12-month period beginning after June 30, 2007 and ending before July 1, 2008 if the following conditions are satisfied:

1. The individual is an eligible individual on July 1, 2007 in respect of one or more qualified dependants and is entitled to receive a Canada child tax benefit for July 2007.

2. The individual is resident in Ontario on July 1, 2007.

3. The individual and, if required by the Provincial Minister, the person who is the individual’s cohabiting spouse or common-law partner have each filed a return of income for the 2006 taxation year. 2007, c. 7, Sched. 17, s. 4.

Same

(5)  An overpayment on account of an individual’s liability under this Act for a taxation year is deemed to have arisen during a month beginning after June 30, 2007 and ending before January 1, 2009 in relation to which the year is the base taxation year if the following conditions are satisfied:

1. The individual is an eligible individual at the beginning of the month in respect of one or more qualified dependants and is entitled to receive a Canada child tax benefit for that month.

2. The individual is resident in Ontario on the first day of the month.

3. The individual and, if required by the Provincial Minister, the person who is the individual’s cohabiting spouse or common-law partner have each filed a return of income for the base taxation year. 2007, c. 7, Sched. 17, s. 4; 2009, c. 18, Sched. 13, s. 2 (1).

Ontario child benefit for July 2007 to June 2008

(6)  The total amount of Ontario child benefits to which an eligible individual is entitled for the 12-month period commencing July 1, 2007 and ending June 30, 2008 is the amount calculated using the formula,

($250 × A) – B

in which,

“A” is the number of qualified dependants in respect of whom the individual is an eligible individual on July 1, 2007, and

“B” is the amount equal to 3.4 per cent of the amount, if any, by which the individual’s adjusted income for the 2006 taxation year exceeds $20,000.

2007, c. 7, Sched. 17, s. 4.

Amount of a monthly payment after June 2008 and before January 2009

(7)  The amount of an Ontario child benefit to which an eligible individual is entitled for a month commencing after June 30, 2008 and ending before January 1, 2009 is the amount calculated using the formula,

($600 × C – D) / 12

in which,

“C” is the number of qualified dependants in respect of whom the individual is an eligible individual on the first day of the month, and

“D” is the amount equal to 8 per cent of the amount, if any, by which the individual’s adjusted income for the base taxation year in respect of the month exceeds $20,000.

2009, c. 18, Sched. 13, s. 2 (2).

Notice and payment

(8)  If the Provincial Minister determines that an individual is entitled to an Ontario child benefit, the Provincial Minister,

(a) shall send a notice to the individual setting out the amount of the payment to which the individual is entitled; and

(b) shall make the payment in accordance with the determination by means of,

(i) one payment in the amount determined in respect of the individual under subsection (6), if an overpayment on account of the individual’s liability under this Act is deemed under subsection (4) to have arisen, or

(ii) monthly payments, each of which is in the amount determined under subsection (7) in respect of the month to which the payment applies, if an overpayment on account of the individual’s liability under this Act is deemed under subsection (5) to have arisen during that month. 2007, c. 7, Sched. 17, s. 4.

Minimum Ontario child benefit, July 2007 to June 2008

(9)  If the amount of an individual’s Ontario child benefit as determined under subsection (6) for the 12-month period commencing July 1, 2007 and ending June 30, 2008 is greater than zero but less that $10, the Provincial Minister shall pay the individual an Ontario child benefit of $10 for that 12-month period. 2007, c. 7, Sched. 17, s. 4.

Small amounts

(9.1)  If the total amount of an individual’s adjusted Ontario child benefit for the 12-month period commencing July 1, 2008 and ending June 30, 2009, as determined under subsection (9.2), is $2 or less, the total amount of the individual’s Ontario child benefit for the six-month period commencing July 1, 2008 is deemed to be nil. 2008, c. 7, Sched. I, s. 5 (2).

Adjusted Ontario child benefit

(9.2)  An individual’s adjusted Ontario child benefit for the 12-month period commencing July 1, 2008 and ending June 30, 2009 is the sum of,

(a) the individual’s total Ontario child benefit for the six-month period commencing July 1, 2008, determined without reference to subsection (9.1); and

(b) the individual’s total Ontario child benefit under section 104 of the Taxation Act, 2007 for the six-month period commencing January 1, 2009, determined without reference to subsection 104 (6.1) of that Act. 2008, c. 7, Sched. I, s. 5 (2).

No set-off

(10)  No portion of an Ontario child benefit shall be retained by the Provincial Minister and applied to reduce any debt to the Crown in right of Ontario or in right of Canada other than an amount required to be repaid under this section. 2007, c. 7, Sched. 17, s. 4.

Repayment of Ontario child benefit

(11)  If, after an Ontario child benefit is paid to an individual under this section, it is determined that the individual received an Ontario child benefit to which he or she is not entitled or received an amount greater than the amount to which he or she is entitled, the individual shall repay the amount or the excess amount, as the case may be, to the Provincial Minister. 2007, c. 7, Sched. 17, s. 4.

Exception for July 2007 to June 2008

(12)  Subsection (11) does not apply in either of the following circumstances in respect of an amount that is repayable by an individual in respect of the Ontario child benefit for the 12-month period that commences on July 1, 2007:

1. If the total amount that is repayable is not more than $25.

2. If all of the following criteria are satisfied:

i. The individual is resident in Ontario on July 1, 2007.

ii. The individual’s adjusted income for the 2006 taxation year does not exceed $50,000.

iii. The Provincial Minister is satisfied that the obligation to make the repayment resulted solely from an administrative error made during the initial determination, a redetermination or a payment of the Ontario child benefit or during a reassessment of the individual for the 2006 taxation year. 2007, c. 7, Sched. 17, s. 4.

Exception after June 2008

(13)  Subsection (11) does not apply if the total amount that is repayable by an individual under this section or under section 104 of the Taxation Act, 2007 on account of an Ontario child benefit for the 12-month period commencing July 1, 2008 and ending June 30, 2009 is not more than $2. 2009, c. 18, Sched. 13, s. 2 (3).

Recovery of excess amounts

(14)  An amount repayable under subsection (11) that has not been repaid to the Provincial Minister,

(a) constitutes a debt to the Crown in right of Ontario and may be recovered by way of deduction, set-off or in any court of competent jurisdiction in proceedings commenced at any time or in any other manner provided by this Act; and

(b) shall be deemed for the purposes of sections 31 to 36 to be tax payable under this Act. 2007, c. 7, Sched. 17, s. 4.

No interest payable

(15)  No interest is payable on the amount of an Ontario child benefit paid by the Provincial Minister under this section or repayable by an individual under this section. 2007, c. 7, Sched. 17, s. 4.

Confidentiality

(16)  If a collection agreement is in effect, any person employed by the Government of Ontario may provide to officials of the Government of Canada information, including personal information, required by the Government of Canada to administer this section or co-ordinate the application of this section with the application of subdivision a.1 of Division E of Part I of the Federal Act. 2007, c. 7, Sched. 17, s. 4.

Money appropriated by the Legislature

(17)  The money required for the purposes of this section shall be paid out of the money appropriated for those purposes by the Legislature. 2008, c. 7, Sched. I, s. 5 (2).

**Section Amendments with date in force (d/m/y)**

[2007, c. 7, Sched. 17, s. 4](http://www.ontario.ca/laws/statute/S07007" \l "sched17s4) - 17/05/2007

[2008, c. 7, Sched. I, s. 5 (1, 2)](http://www.ontario.ca/laws/statute/S08007" \l "schedis5s1) - 1/01/2008

[2009, c. 18, Sched. 13, s. 2 (1-3)](http://www.ontario.ca/laws/statute/S09018" \l "sched13s2s1) - 1/01/2009

[CTS 6 OC 14 - 3](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

Division C.1 — Tax Overpayments

Ontario research employee stock option tax overpayment

**8.7**  (1)  An individual other than a trust shall be deemed to have made an overpayment on account of tax payable under this Act for a taxation year ending before January 1, 2010 in the amount of his or her Ontario research employee stock option tax overpayment, if any, for the year if the following conditions are satisfied:

1. The individual is deemed to receive a benefit under section 7 of the Federal Act in the taxation year in respect of an eligible stock option agreement or has realized a capital gain on the sale of shares acquired on the exercise of rights under an eligible stock option agreement.

2. The individual is resident in Ontario on December 31 of the calendar year in which the taxation year ends, or on the day in that calendar year the individual dies if he or she dies in that year.

3. The individual was resident in Ontario on December 31 of the calendar year in which the eligible stock option agreement was entered into.

4. The individual is not an ineligible individual in respect of the eligible stock option agreement.

5. The individual deducted an amount under paragraph 110 (1) (d), (d.01) or (d.1) of the Federal Act in respect of a benefit relating to the eligible stock option agreement in computing his or her income for the taxation year or a prior taxation year.

6. The individual has filed a return of income under this Act and the Federal Act for the taxation year.

7. The individual is an eligible employee of an eligible employer at the time the eligible employer or a corporation not dealing at arm’s length with the eligible employer enters into the eligible stock option agreement. 2000, c. 42, s. 58; 2001, c. 23, s. 134 (1); 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 12 (1).

Amount

(2)  The amount of an individual’s Ontario research employee stock option tax overpayment for a taxation year is the amount by which “A” exceeds “B” where,

“A” is the amount of tax payable under this Act by the individual for the taxation year before any refund under this section or tax incentive under section 8.9, and

“B” is the individual’s adjusted tax amount for the taxation year. 2000, c. 42, s. 58; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 12 (2).

Ineligible individual

(3)  An individual is an ineligible individual in respect of an eligible stock option agreement if,

(a) the individual is a specified shareholder of the eligible employer or the corporation that entered into the agreement or of a corporation that is associated with the eligible employer at any time in the taxation year of the eligible employer in which the agreement is entered into or at any time in its five previous taxation years; or

(b) the individual would be a specified shareholder referred to in clause (a) if the individual were to own every share of the capital stock of the eligible employer or the corporation, as the case may be, that the individual, or a person with whom the individual did not deal at arm’s length, had a right at that time to acquire under a contract, either immediately or in the future and either absolutely or contingently. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Adjusted tax amount

(4)  An individual’s adjusted tax amount for a taxation year is the amount of tax that would be payable by the individual under this Act for the year if the individual’s taxable income for the year were equal to the individual’s adjusted taxable income under this section. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Adjusted taxable income

(5)  An individual’s adjusted taxable income for a taxation year is the amount determined by deducting from the individual’s taxable income for the year the amount that is the lesser of,

(a) $100,000; and

(b) the sum of all amounts each of which is,

(i) the individual’s benefit under section 7 of the Federal Act for the taxation year in respect of an eligible stock option agreement, less any deduction claimed under paragraph 110 (1) (d), (d.01) or (d.1) of that Act in respect of the benefit in computing the individual’s taxable income for the taxation year, or

(ii) the lesser of the individual’s taxable capital gain for the taxation year from the disposition of shares of a corporation acquired by the individual on the exercise of rights under an eligible stock option agreement and the amount calculated under subsection (6) in respect of the individual for the taxation year. 2000, c. 42, s. 58; 2001, c. 23, s. 134 (2); 2004, c. 16, s. 3.

Calculate amount

(6)  For the purposes of subclause (5) (b) (ii), the amount is calculated using the formula,

A – (B + C + D)

in which,

“A” is the net taxable capital gain included in computing the individual’s income for the taxation year under paragraph 3 (b) of the Federal Act,

“B” is the allowable business investment loss, if any, deducted in computing the individual’s income for the taxation year,

“C” is the net capital loss, if any, deducted in computing the individual’s taxable income for the taxation year, and

“D” is the amount, if any, deducted in computing the individual’s taxable income for the taxation year under subsection 110.6 (2.1) of the Federal Act.

2000, c. 42, s. 58; 2004, c. 16, s. 3.

Eligible employee

(7)  For the purposes of this section, an individual is an eligible employee at the time the stock option agreement in respect of the individual is entered into if the following conditions are satisfied:

1. The individual is a full-time or permanent part-time employee of an eligible employer during the taxation year of the employer in which the employer or a corporation not dealing at arm’s length with it enters into the stock option agreement.

2. The individual is employed by the eligible employer for a period of at least 6 consecutive months and the period of employment includes at least part of that taxation year.

3. The individual is not an incorporated employee providing services on behalf of a personal services business, within the meaning of subsection 125 (7) of the Federal Act, at any time in that taxation year or in any of the eligible employer’s five previous taxation years to,

i. the eligible employer,

ii. the corporation that entered into the agreement,

iii. a corporation associated with the eligible employer, or

iv. a partnership of which the eligible employer, the corporation that entered into the agreement or a corporation associated with the eligible employer is a member.

4. The individual’s R & D work time percentage or R & D wage percentage is at least 30 per cent for that taxation year. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

R & D work time percentage

(8)  An individual’s R & D work time percentage for an eligible employer’s taxation year is the percentage calculated using the formula,

E/F × 100%

in which,

“E” is the number of hours during the taxation year in which the individual provided employment services by directly undertaking or supervising in Ontario the prosecution of scientific research and experimental development if,

(a) the salary or wages for the employment services are expenditures directly attributable to the prosecution of scientific research and experimental development under paragraph 2900 (2) (b) of the Federal Regulations, and

(b) the employment services are provided to the employer, a corporation associated with the employer or a partnership of which the employer or a corporation associated with the employer is a partner, and

“F” is the total number of hours in the taxation year in which the individual provided employment services to the employer, a corporation associated with the employer or a partnership of which the employer, or a corporation associated with the employer, is a partner.

2000, c. 42, s. 58; 2004, c. 16, s. 3.

R & D wage percentage

(9)  An individual’s R & D wage percentage for an eligible employer’s taxation year is the percentage calculated using the formula,

E/F × 100%

in which,

“E” is the individual’s total salary or wages for the employer’s taxation year for providing employment services by directly undertaking or supervising in Ontario the prosecution of scientific research and experimental development if,

(a) the salary or wages for the employment services are expenditures directly attributable to the prosecution of scientific research and experimental development under paragraph 2900 (2) (b) of the Federal Regulations, and

(b) the employment services are provided to the employer, a corporation associated with the employer or a partnership of which the employer or a corporation associated with the employer is a partner, and

“F” is the individual’s total salary or wages for the employer’s taxation year for providing employment services to the employer, a corporation associated with the employer or a partnership of which the employer, or a corporation associated with the employer, is a partner.

2000, c. 42, s. 58; 2004, c. 16, s. 3.

Eligible employer

(10)  For the purposes of this section, an employer is an eligible employer at the time a stock option agreement is entered into by the employer or by a corporation not dealing at arm’s length with the employer if the following conditions are satisfied:

1. The employer is a corporation.

2. Throughout the taxation year of the employer in which the stock option agreement is entered into, the employer carries on business through a permanent establishment in Ontario, either directly or as a member of a partnership.

3. In the taxation year before the year in which the stock option agreement is entered into, the employer undertakes scientific research and experimental development at a permanent establishment in Ontario, either directly or as a member of a partnership that directly undertakes the research and development.

4. The employer’s eligible expenditures for the taxation year before the year in which the stock option agreement is entered are not less than $25 million or 10 per cent of the employer’s total revenue for that taxation year, whichever is less. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Research by associated corporation

(11)  For the purposes of paragraph 3 of subsection (10), scientific research and experimental development directly undertaken by a person at a permanent establishment in Ontario during a taxation year of the employer shall be deemed to be directly undertaken by the employer if,

(a) the person is a corporation associated throughout the taxation year with the employer; and

(b) the person undertakes the research and development directly or as a member of a partnership that directly undertakes the research and development. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Eligible expenditures

(12)  Subject to subsection (16), an eligible employer’s eligible expenditures for a taxation year include,

(a) the employer’s proportionate share of any expenditures incurred by a partnership of which it is a member during a fiscal period of the partnership that ends in the particular taxation year that would be eligible expenditures if incurred by a corporation; and

(b) eligible expenditures incurred by each corporation that is associated with the employer throughout the taxation year and that has a permanent establishment in Canada for any taxation year of the associated corporation that ends in the taxation year, including the associated corporation’s proportionate share of any expenditures incurred by a partnership of which it is a member during a fiscal period of the partnership that ends in the associated corporation’s taxation year that would be eligible expenditures if incurred by a corporation. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Total revenue

(13)  Subject to subsection (16), the total revenue of an eligible employer for a taxation year includes,

(a) the employer’s proportionate share of the total revenue of a partnership of which it is a member during a fiscal period of the partnership that ends in the taxation year; and

(b) the total revenue of each corporation that is associated with the employer throughout the taxation year and that has a permanent establishment in Canada for any taxation year of the associated corporation that ends in the taxation year, including the associated corporation’s share of the total revenue of any partnership of which it is a member for a fiscal period ending in the associated corporation’s taxation year. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Partner

(14)  A partner’s proportionate share of an amount in respect of the partnership for a fiscal period is,

(a) nil if the partner is a specified member of the partnership at any time in the fiscal period; or

(b) the amount determined by multiplying the amount by the ratio of the partner’s share of the income or loss of the partnership for that fiscal period to the total income or loss of the partnership for that fiscal period, in any other case. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Exception, short taxation year

(14.1)  If an employer or a corporation not dealing at arm’s length with an employerenters into a stock option agreement after December 21, 2000 and before May 18, 2004, the condition described in paragraph 4 of subsection (10) shall be deemed to be satisfied for the taxation year before the year in which the stock option agreement is entered into (the “preceding taxation year”) if the conditions described in paragraphs 1 and 2 of subsection (14.2) are satisfied and,

(a) if the conditions described in paragraphs 3 and 4 of subsection (14.2) are satisfied;

(b) if the condition described in paragraph 5 of subsection (14.2) is satisfied; or

(c) if the conditions described in paragraphs 3, 4 and 5 of subsection (14.2) are satisfied. 2002, c. 22, s. 111; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 12 (3).

Same

(14.2)  The following are the conditions referred to in subsection (14.1):

1. The preceding taxation year is less than 51 weeks in duration.

2. The employer’s eligible expenditures for the taxation year that precedes the preceding taxation year are not less than $25 million or 10 per cent of the employer’s total revenue for that taxation year, whichever is less.

3. The employer is associated with one or more other corporations (each referred to as an associated corporation) throughout the preceding taxation year. Each associated corporation has a permanent establishment in Canada throughout the preceding taxation year.

4. The eligible expenditures of an associated corporation are not included in the eligible expenditures of the employer for the preceding taxation year because the taxation year of the associated corporation did not end in the preceding taxation year.

5. If the employer or an associated corporation is a member of a partnership in the preceding taxation year and if the partnership carried on business in Canada throughout the preceding taxation year, expenditures of the partnership that would be eligible expenditures if they had been incurred by a corporation are not included in the eligible expenditures of the employer for the preceding taxation year because the fiscal period of the partnership did not end in the preceding taxation year. 2002, c. 22, s. 111; 2004, c. 16, s. 3.

Start-ups

(15)  For the purposes of subsection (10), if the taxation year in which the stock option agreement is entered into is the first taxation year of the employer after it was incorporated or is the first taxation year in which it carries on business, references to the taxation year before that year are read as references to that year. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

First taxation year, amalgamated corporation

(15.1)  For the purposes of subsection (10), if the taxation year in which the stock option agreement is entered into is the first taxation year of an employer ending after an amalgamation to which section 87 of the Federal Act applies, references to the taxation year before that year are read as references to the taxation year of each of the predecessor corporations, as referred to in section 87 of the Federal Act, that ended immediately before the amalgamation. 2001, c. 23, s. 134 (3); 2004, c. 16, s. 3.

Short or multiple taxation years

(16)  In determining the amount of eligible expenditures and total revenue for a taxation year for the purposes of this section, the following rules apply:

1. If the taxation year is less than 51 weeks and is the only taxation year ending in a calendar year, the eligible expenditures and total revenue for the taxation year are the amounts otherwise determined, multiplied by the ratio of 365 to the number of days in the taxation year.

2. If the taxation year is not the only taxation year of the eligible employer ending in the same calendar year, the amount of the employer’s eligible expenditures and total revenue for the taxation year is the total of those amounts for all taxation years ending in that calendar year, as otherwise determined, multiplied by the ratio of 365 to the total number of days in those taxation years.

3. If the taxation year of a corporation that is associated with the eligible employer is less than 51 weeks and is the only taxation year of the associated corporation ending in the employer’s taxation year, the corporation’s eligible expenditures and total revenue for that taxation year are the amounts otherwise determined, multiplied by the ratio of 365 to the number of days in the taxation year.

4. If a fiscal period of a partnership of which the eligible employer or the associated corporation is a member is less than 51 weeks and is the only fiscal period of the partnership ending in the taxation year of the employer or the associated corporation, as the case may be, the eligible expenditures and total revenue of the partnership for that fiscal period are the amounts otherwise determined, multiplied by the ratio of 365 to the number of days in the fiscal period.

5. If a corporation who is associated with the eligible employer has two or more taxation years ending in the employer’s taxation year, the eligible expenditures and total revenue of the associated corporation for the taxation year ending in the employer’s taxation year are the total of those amounts for all of its taxation years ending in the employer’s taxation year, as otherwise determined, multiplied by the ratio of 365 to the total number of days in all of those taxation years.

6. If a partnership of which the eligible employer or the associated corporation is a member has two or more fiscal periods ending in the taxation year of the employer or the associated corporation, as the case may be, the eligible expenditures and total revenue for the fiscal period of the partnership ending in the taxation year of the employer or the associated corporation, as the case may be, are those amounts for all of its fiscal periods ending in the taxation year, as otherwise determined, multiplied by the ratio of 365 to the total number of days in all of the fiscal periods. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Eligible expenditures

(17)  Eligible expenditures of an entity for a taxation year or fiscal period for the purposes of this section is the amount calculated using the formula,

A + B – C

in which,

“A” is the total amount of the expenditures incurred by the entity in the taxation year or fiscal period at a permanent establishment in Ontario each of which would be a qualified expenditure under subsection 12 (1) of the *Corporations Tax Act* and is,

(a) an amount described in subparagraph 37 (1) (a) (i) or 37 (1) (b) (i) of the Federal Act, or

(b) a prescribed proxy amount of the entity for the taxation year referred to in paragraph (b) of the definition of “qualified expenditures” in subsection 127 (9) of the Federal Act,

“B” is the reduction, if any, in the amount of “A” required under subsections 127 (18) to (20) of the Federal Act in respect of a contract payment, and

“C” is the total of all amounts each of which is paid or payable by the entity in the taxation year or fiscal period that are included in the amount of “A” and that would be contract payments as defined in subsection 127 (9) of the Federal Act to the recipient of the amount.

2000, c. 42, s. 58; 2004, c. 16, s. 3.

Certificate to Provincial Minister

(18)  The eligible employer shall deliver to the Provincial Minister, in a form and manner satisfactory to the Provincial Minister, on or before the date by which the employer is required by section 75 of the Corporations Tax Act to deliver a return for its taxation year in which an eligible stock option agreement was entered into,

(a) a certificate certifying that it is an eligible employer for the taxation year for the purposes of this section and certifying the date it or a corporation not dealing at arm’s length with it entered into the eligible stock option agreement;

(b) such information as the Provincial Minister may require to verify that the employer is an eligible employer; and

(c) a list containing the names and social insurance numbers of all eligible employees in respect of whom the agreement was entered into. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Certificate to employee

(19)  The eligible employer shall deliver to every individual who is an eligible employee in relation to an eligible stock option agreement a certificate certifying,

(a) that the stock option agreement is an eligible stock option agreement for the purposes of this section; and

(b) that the employee is an eligible employee in relation to the agreement for the purposes of this section. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Same

(20)  The certificate under subsection (19) must be in a form approved by the Provincial Minister and must be delivered in a manner acceptable to the Provincial Minister on or before the day by which the eligible employer is required by section 75 of the Corporations Tax Act to deliver a return for its taxation year in which the eligible stock option agreement was entered into. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Notice of benefit, Provincial Minister

(21)  The eligible employer in respect of an eligible stock option agreement shall notify the Provincial Minister of the following information during each relevant calendar year:

1. The name, address and social insurance number of each individual,

i. who is deemed under section 7 of the Federal Act to receive a benefit in the year other than by reason of an election in a prior taxation year under subsection 7 (8) of the Federal Act in respect of an acquisition under the agreement, or

ii. who elects for the year to have subsection 7 (8) of the Federal Act apply in respect of an acquisition under the agreement.

2. The amount of any benefit deemed by section 7 of the Federal Act to be received in the calendar year by each individual referred to in subparagraph 1 i, other than a benefit that is reported as income in the calendar year as a result of an election in a prior taxation year under subsection 7 (8) of the Federal Act.

3. The amount of any benefit that would otherwise have been reported as income in that year by an individual referred to in subparagraph 1 ii if an election under subsection 7 (8) of the Federal Act had not been made.

4. Any valid revocation under subsection 7 (13) of the Federal Act of an election referred to in paragraph 3. 2001, c. 23, s. 134 (4); 2004, c. 16, s. 3.

Same

(22)  The notice under subsection (21) must be in a form approved by the Provincial Minister and must be delivered to the Provincial Minister in a manner acceptable to the Provincial Minister on or before the day by which the eligible employer is required by section 75 of the Corporations Tax Act to deliver a return for its first taxation year ending after the calendar year in which the individual is deemed to have received the benefit. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Notice of benefit, employee

(23)  The eligible employer shall notify the individual if,

(a) a benefit deemed to be received by the individual in a calendar year under section 7 of the Federal Act, other than by reason of an election in a prior taxation year under subsection 7 (8) of that Act, relates to an eligible stock option agreement; and

(b) an acquisition made in a calendar year, to which the individual elects to have subsection 7 (8) of the Federal Act apply, relates to an eligible stock option agreement. 2001, c. 23, s. 134 (5); 2004, c. 16, s. 3.

Same

(24)  The notice under subsection (23) must be in a form approved by the Provincial Minister and must be delivered in a manner acceptable to the Provincial Minister on or before the day by which the eligible employer is required by section 75 of the Corporations Tax Act to deliver a return for its first taxation year ending after the calendar year in which the individual is deemed to have received the benefit. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Application by individual

(25)  An individual who is deemed by this section to have made an overpayment on account of tax payable under this Act for a taxation year in respect of one or more eligible stock option agreements may apply for a refund of the overpayment by filing an application with the Provincial Minister, certifying that he or she satisfies the conditions in subsection (1) and setting out the following information:

1. The year in which each eligible stock option agreement was entered into.

2. The amount of all benefits included in computing his or her income for the taxation year under section 7 of the Federal Act in respect of the eligible stock option agreements.

3. All amounts deducted in computing the individual’s taxable income for the taxation year under paragraph 110 (1) (d), (d.01) or (d.1) of the Federal Act in respect of the benefits.

4. The amount of any taxable capital gains realized by the individual from the disposition of shares acquired through exercising rights under any of the eligible stock option agreements if the taxable capital gains were included in computing the individual’s income for the taxation year.

5. The amount of the net taxable capital gains included in computing the individual’s income for the taxation year.

6. The amount of any allowable business investment loss deducted in computing the individual’s income for the taxation year.

7. The amount of any net capital loss deducted in computing the individual’s taxable income for the taxation year.

8. The amount deducted under subsection 110.6 (2.1) of the Federal Act in computing the individual’s taxable income for the taxation year.

9. The amount of the individual’s taxable income for the taxation year.

10. The amount of tax payable by the individual for the taxation year under this Act, before any refund under this section. 2000, c. 42, s. 58; 2001, c. 23, s. 134 (6); 2004, c. 16, s. 3.

Same

(26)  The application under subsection (25) must be in a form approved by the Provincial Minister and must be delivered on or before September 30th of the second calendar year beginning after the taxation year to which the overpayment relates. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Filing of certificate

(27)  The individual shall file with the application true copies of all certificates received from eligible employers relating to eligible stock option agreements. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Filing of forms

(27.1)  The individual shall file with the application such forms as the Provincial Minister may specify to verify that the individual is eligible to a refund under this section and the amount, if any, that the individual is entitled to receive under this section or section 8.8. 2001, c. 23, s. 134 (7); 2004, c. 16, s. 3.

Late application

(28)  The Provincial Minister may accept an application that is not filed on time if,

(a) the application is filed no later than two years after the last date by which it is required to be filed under this section; and

(b) the Provincial Minister is satisfied that the individual was unable to file the application at an earlier time for reasons beyond his or her control. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Notice of change

(29)  Every employer and corporation that has filed a certificate or notice with the Provincial Minister under this section shall notify the Provincial Minister in a form and manner satisfactory to the Provincial Minister of any change in the information provided to the Provincial Minister. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Time

(30)  The notice under subsection (29) must be filed with the Provincial Minister on or before the last day of the second month following the month in which the employer or corporation becomes aware that the information is inaccurate or has changed, whether the inaccuracy or change is a result of a reassessment of tax or is due to another reason. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Restriction

(31)  No application may be made under this section if the tax payable under this Act is in respect of taxable income reported in a return filed pursuant to an election made under subsection 104 (23) or 150 (4) of the Federal Act, or a return filed under paragraph 128 (2) (e) or (h) of the Federal Act. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Determination by Provincial Minister

(32)  The Provincial Minister shall determine whether the individual is deemed under this section to have made an overpayment of tax for the taxation year and the amount of his or her Ontario research employee stock option tax overpayment, if any, for the year. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Refund of overpayment

(33)  After making a determination under subsection (32), the Provincial Minister shall pay a refund to the individual in the amount, if any, of the individual’s Ontario research employee stock option tax overpayment for the year. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Deemed refund of tax

(34)  For the purposes of section 164 of the Federal Act, as it applies for the purposes of this Act, a refund paid under this section is a refund of tax under this Act. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Interest

(35)  Despite any other provision of this Act or the Federal Act, interest is payable on the amount of a refund under this section only in accordance with the rules in section 8.8. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Anti-avoidance provision

(36)  Despite any other provision of this section, the Provincial Minister may disallow an individual’s application under this section unless the individual entered into an employment relationship with the eligible employer for bona fide purposes other than to obtain a tax refund under this section. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Shares held in trust

(37)  If an individual is entitled to deduct and has deducted an amount under subsection 8 (12) of the Federal Act in computing his or her income for the taxation year in respect of shares issued under an eligible stock option agreement that the individual is deemed to have disposed of under subsection 7 (2) of the Federal Act, the following rules apply:

1. The eligible employer in relation to the eligible stock option agreement shall notify the Provincial Minister in a form and manner satisfactory to the Provincial Minister that the conditions in paragraphs 8 (12) (a) to (d) of the Federal Act have been satisfied.

2. The individual shall repay to the Provincial Minister all or the portion of all refunds paid to the individual in respect of the eligible stock option agreement that reasonably relate to the shares. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Regulations

(38)  The Lieutenant Governor in Council may make regulations,

(a) prescribing, with or without modifications, provisions of the Federal Act that apply for the purposes of this section and the manner in which they apply;

(b) prescribing the ordering of disposition of identical properties for the purposes of determining amounts relevant to calculations under this section;

(c) governing the provision of such information as the Provincial Minister may require for the administration of this section;

(d) prescribing the method of determining a corporation’s eligible expenditures and total revenue after a purchase or sale of assets used in carrying on its business. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Indemnity

(39)  No action or other proceeding for damages or otherwise may be instituted against a person for an act done in good faith in the execution or intended execution of a duty or authority under this section or for an alleged neglect or default in the execution in good faith of any such duty or authority under this section. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Non-arm’s length

(40)  Persons are not dealing at arm’s length for the purposes of this section if they are not dealing at arm’s length for the purposes of the Federal Act. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Definitions

(41)  In this section,

“associated” means, in respect of a corporation and another person, associated within the meaning of subsection 256 (1) of the Federal Act; (“associé”)

“eligible stock option agreement” means a stock option agreement, other than a replacement option agreement,

(a) that is entered into by an eligible employer, or by a corporation that does not deal at arm’s length with the eligible employer, after December 21, 2000 and before May 18, 2004,

(b) that provides for the sale or issue of shares to an individual who is an eligible employee of the eligible employer at the time the stock option agreement is entered into, and

(c) that is entered into in the course of or by virtue of the eligible employee’s employment with the eligible employer; (“convention d’option d’achat d’actions admissible”)

“permanent establishment” has the meaning,

(a) given to that expression by subsection 400 (2) of the Federal Regulations in references to a permanent establishment in Canada, and

(b) given to that expression by section 4 of the Corporations Tax Act in references to a permanent establishment in Ontario; (“établissement stable”)

“permanent part-time employee” has the meaning assigned to it by subsection 1 (1) of the regulations made under the Employment Equity Act (Canada); (“employé permanent à temps partiel”)

“replacement option agreement” means a stock option agreement that is entered into after the day the Balanced Budgets for Brighter Futures Act, 2000 receives Royal Assent if it is reasonable to consider that the purpose of the agreement is to replace a stock option agreement that was entered into on or before that day; (“convention de remplacement”)

“stock option agreement” means an agreement pursuant to which a corporation agrees to sell or issue shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of the corporation or of a corporation with which it does not deal at arm’s length; (“convention d’option d’achat d’actions”)

“total revenue” means,

(a) for a taxation year of a corporation, the amount that would be the corporation’s gross revenue for the taxation year, as determined in accordance with generally accepted accounting principles except that the consolidation and equity methods must not be used, if the gross revenue excluded revenue from transactions with,

(i) corporations that are associated with the corporation throughout the taxation year and that have permanent establishments in Canada in the taxation year, or

(ii) partnerships of which the corporation or a corporation described in subclause (i) is a member, or

(b) for a fiscal period of a partnership of which a corporation is a member, the amount that would be the partnership’s gross revenue for the fiscal period, as determined in accordance with generally accepted accounting principles except that the equity method must not be used, if the gross revenue excluded revenue of the partnership from transactions with,

(i) the corporation, or

(ii) corporations that are associated with the corporation throughout the taxation year in which the fiscal period ends and that have permanent establishments in Canada in that taxation year. (“revenu total”) 2000, c. 42, s. 58; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 12 (4).

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 58](http://www.ontario.ca/laws/statute/S00042" \l "s58) - 1/02/2002

[2001, c. 23, s. 134 (1-7)](http://www.ontario.ca/laws/statute/S01023" \l "s134s1) - 1/02/2002

[2002, c. 22, s. 111](http://www.ontario.ca/laws/statute/S02022" \l "s111) - 1/02/2002

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 12 (1, 3, 4)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s12s1) - 18/05/2004; [2004, c. 31, Sched. 19, s. 12 (2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s12s2) - 27/03/2003

Set-off

**8.8**  (1)  If an individual who is entitled to a refund under section 8.7 is liable or is about to become liable to make a payment to the Crown in right of Ontario, the Provincial Minister may apply to that liability all or part of the refund and any interest payable in respect of the refund, instead of paying the refund and interest to the individual. 2001, c. 23, s. 135 (1); 2004, c. 16, s. 3.

Interest

(2)  If an individual’s refund under section 8.7 for a taxation year is paid or applied to a liability of the individual, the Provincial Minister shall pay or apply interest on the refund at the rate prescribed by the regulations for the period,

(a) that begins on the day that is the later of,

(i) the day that is,

(A) 45 days after the balance-due day of the taxpayer for the taxation year, if the taxation year commences before January 1, 2005, or

(B) 30 days after the balance-due day of the taxpayer for the taxation year, if the taxation year commences after December 31, 2004, and

(ii) the day the notice of assessment for the taxation year is issued by the Minister under section 152 of the Federal Act; and

(b) that ends on the day when the refund is paid or applied. 2005, c. 31, Sched. 11, s. 8.

Repayment

(3)  An individual who receives a refund under section 8.7 or interest on a refund under that section to which he or she is not entitled, or receives an amount greater than the amount to which he or she is entitled, shall repay the amount or the excess amount, as the case may be, to the Provincial Minister. 2001, c. 23, s. 135 (3); 2004, c. 16, s. 3.

Interest on repayment

(4)  Amounts repayable under subsection (3) shall bear interest in accordance with the prescribed rules and may be collected as tax payable under this Act. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Minimum payment

(5)  Despite any other provision of this Act, where the unpaid balance of the refund payable to an individual under section 8.7 does not exceed the amount determined by the Provincial Minister, the Minister is not required to pay that balance or any interest under subsection (2) on that balance. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Notice of entitlement

(6)  After making a determination for the purposes of section 8.7, the Provincial Minister shall send to the individual a notice of entitlement setting out the following if the individual is entitled to a refund under the section:

1. The amount of the overpayment under the section.

2. The basis on which the determination is made.

3. Information on the individual’s right to object to the notice of entitlement. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

Day of mailing

(7)  The day of mailing of a notice of entitlement under this section is deemed to be the date of the notice. 2000, c. 42, s. 58; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 58](http://www.ontario.ca/fr/lois/loi/S00042" \l "s58) - 1/02/2002

[2001, c. 23, s. 135 (1-3)](http://www.ontario.ca/laws/statute/S01023" \l "s135s1) - 1/02/2002

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

[2005, c. 31, Sched. 11, s. 8](http://www.ontario.ca/laws/statute/S05031" \l "sched11s8) - 15/12/2005

Division C.2 — Tax Incentive for Investing in Ontario Jobs and Opportunity Bonds

Tax incentive, Ontario Jobs and Opportunity Bonds

**8.9**  (1)  In this section,

“Authority” means the Ontario Strategic Infrastructure Financing Authority continued by subsection 2 (1) of the Ontario Strategic Infrastructure Financing Authority Act, 2002; (“Office”)

“Ontario Jobs and Opportunity Bond” means a bond, debenture or other security,

(a) that is issued by the Authority and is designated by it as an Ontario Jobs and Opportunity Bond,

(b) that is issued by a subsidiary, trust, partnership or other entity established or acquired by the Authority and is designated by the Authority as an Ontario Jobs and Opportunity Bond, or

(c) that is designated by the Provincial Minister as an Ontario Jobs and Opportunity Bond. (“obligation ontarienne de financement d’emplois et de projets”) 2002, c. 22, s. 112; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 13.

Tax incentive

(2)  An eligible individual who owns an Ontario Jobs and Opportunity Bond at any time in a taxation year is entitled to receive a tax incentive under this section in respect of the interest received or receivable on the Bond in the taxation year. 2002, c. 22, s. 112; 2004, c. 16, s. 3.

Eligible individual

(3)  An individual is an eligible individual under this section if he or she satisfies the prescribed conditions. 2002, c. 22, s. 112; 2004, c. 16, s. 3.

Certificate

(4)  A certificate of the chair, a vice-chair, the chief executive officer or any officer of the Authority designated by its board of directors which states that an entity is a subsidiary, trust, partnership or other entity established or acquired by the Authority or that a bond, debenture or other security is an Ontario Jobs and Opportunity Bond is conclusive evidence of the facts stated. 2002, c. 22, s. 112; 2004, c. 16, s. 3.

Regulations

(5)  The Provincial Minister may make regulations,

(a) prescribing the nature of the tax incentive and the manner in which it is calculated;

(b) prescribing the conditions that must be satisfied for an individual to be eligible to receive a tax incentive under this section;

(c) prescribing rules that apply to determine the manner in which the tax incentive is paid or otherwise conferred;

(d) prescribing circumstances in which a tax incentive must be repaid by an individual and prescribing the rules applicable to the repayment;

(e) governing the provision of such information as the Provincial Minister may require for the administration of this section;

(f) prescribing any other matter that the Provincial Minister considers necessary or advisable for the purposes of this section. 2002, c. 22, s. 112; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2002, c. 22, s. 112](http://www.ontario.ca/laws/statute/S02022" \l "s112) - 27/03/2003

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 13](http://www.ontario.ca/laws/statute/S04031" \l "sched19s13) - 16/12/2004

Division D — Returns, Assessments, Payment and Appeals

returns

Returns

**9** (1)  A return for each taxation year for which a tax is payable under this Act, or would be payable but for the application of section 127.3 of the Federal Act in the calculation of tax payable under the Federal Act, shall, without notice or demand therefor, be filed with the Provincial Minister in prescribed form and containing prescribed information,

(a) in the case of a person who has died after the 31st day of October in the year and before the 1st day of May in the next year, by the person’s legal representatives within six months after the date of death;

(b) in the case of an estate or trust, within ninety days from the end of the year;

(c) in the case of any other person, on or before the 30th day of April in the next year, by that person or, if the person is unable for any reason to file the return, by the person’s guardian, curator, tutor, committee or other legal representative; or

(d) in a case where no person described by clause (a) or (c) has filed the return, by such person as is required by notice in writing from the Provincial Minister to file the return, within such reasonable time as the notice specifies. R.S.O. 1990, c. I.2, s. 9 (1); 1992, c. 25, s. 4; 2004, c. 16, s. 3.

Idem

(2)  Subsections 150 (2) to (4) of the Federal Act apply for the purposes of this Act and, in the application thereof, a reference to subsection 150 (1) of the Federal Act shall be read as a reference to subsection (1). R.S.O. 1990, c. I.2, s. 9 (2); 2004, c. 16, s. 3.

Electronic filing

(3)  Subsections 150.1 (1) to (4) of the Federal Act apply for the purposes of this Act and, in the application thereof, a reference to section 150 shall be read as a reference to that section and subsection (1). 1993, c. 29, s. 7; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 4 - 10/12/1992; 1993, c. 29, s. 7 - 10/06/1993

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

assessments

Assessments and withholdings

**10** (1)  The following provisions of the Federal Act apply for the purposes of this Act and, in their application, any reference in them to section 150 or subsection 150 (1) of the Federal Act shall be read to include a reference to subsection 9 (1) of this Act:

1. Section 151.

2. Subsections 152 (1), (1.11), (1.12), (2), (3), (3.1), (4), (4.01), (4.1), (4.2), (4.3), (4.4), (5), (6), (7), (8) and (9).

3. Subsections 153 (1), (1.1), (1.2), (1.4) and (3) and 156.1 (4).

4. Subsections 227 (5), (5.1), (8.3) and (8.4). 1997, c. 10, s. 4 (3); 1999, c. 9, s. 123 (1-3); 2004, c. 16, s. 3; 2008, c. 19, Sched. I, s. 2.

Application of s. 152 of the Federal Act

(1.1)  Subsection 152 (1) of the Federal Act applies to a refund under section 8.7 and a tax incentive under section 8.9. 2004, c. 31, Sched. 19, s. 14.

Same

(1.2)  Despite subsection 152 (3.1) of the Federal Act, the normal reassessment period for a taxation year with respect to a refund under section 8.7 is the period that ends six years after the date that a notice of entitlement relating to the refund is first sent under section 8.8. 2000, c. 42, s. 59; 2004, c. 16, s. 3.

Tax tables

(2)  Where an individual pays tax for a taxation year under the Federal Act computed in accordance with subsection 117 (6) of that Act, the individual may pay in lieu of the amount of tax otherwise determined under one or more sections of this Act the amount or amounts determined by reference to one or more tables prepared in accordance with prescribed rules. R.S.O. 1990, c. I.2, s. 10 (2); 2004, c. 16, s. 3.

Determination of deemed amount

(3)  An individual may, during any month, request in writing that the Provincial Minister determine the amount deemed by section 8.5 to be an overpayment of tax during the month or any month in the immediately preceding 18 months. 1998, c. 34, s. 75; 2004, c. 16, s. 3.

Notice of entitlement

(4)  On receipt of a request under subsection (3), the Provincial Minister shall determine the amount deemed by section 8.5 to be an overpayment of tax or shall determine that no overpayment of tax is deemed to arise under that section, and shall forward a notice of entitlement to the individual containing the information required under subsection 8.5 (10) and shall notify the individual of his or her rights to object to the Provincial Minister’s determination in the notice of entitlement. 1998, c. 34, s. 75; 2004, c. 16, s. 3.

Exception, additional tax amount

(5)  Despite any provision of the Federal Act referred to in subsection (1), an assessment or reassessment of tax payable under section 4 of this Act for a taxation year ending after December 31, 1999 may be made at any time if the reason for the assessment or reassessment is,

(a) to assess or reassess the amount of additional tax, if any, payable by an individual for the taxation year under section 3 after the exclusion from the individual’s gross tax amount for the taxation year all amounts of additional tax determined under subsection 4.3 (2) or 4.6 (2) in respect of a previous taxation year; or

(b) to determine or redetermine the individual’s additional tax amount for the taxation year under subsection 4.6 (2) by including in the calculations the amount of additional tax payable under section 3. 2005, c. 31, Sched. 11, s. 9.

**Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 4 (3) - 20/06/1996; 1998, c. 34, s. 75 - 1/07/1998; 1999, c. 9, s. 123 (1) - 31/12/1991; 1999, c. 9, s. 123 (2) - 17/06/1999; 1999, c. 9, s. 123 (3) - 1/01/1994

[2000, c. 42, s. 59](http://www.ontario.ca/laws/statute/S00042" \l "s59) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 14](http://www.ontario.ca/laws/statute/S04031" \l "sched19s14) - 27/03/2003

[2005, c. 31, Sched. 11, s. 9](http://www.ontario.ca/laws/statute/S05031" \l "sched11s9) - 15/12/2005

[2008, c. 19, Sched. I, s. 2](http://www.ontario.ca/laws/statute/S08019" \l "schedis2) - 18/06/2008

reassessments

Reassessments

**11** Where a collection agreement is in effect and the tax payable by a taxpayer for a taxation year under Part I of the Federal Act is reassessed by the Minister, the Provincial Minister shall reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require, although more than three years may have passed since the day of mailing of a notice of an original assessment of tax, interest or penalties payable under this Act by the taxpayer for the taxation year, or of a notification that no tax is payable under this Act by the taxpayer for the year. R.S.O. 1990, c. I.2, s. 11; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 14](http://www.ontario.ca/laws/statute/S04031" \l "sched19s14) - 27/03/2003

payment of tax

Payment of tax if chief source of income is farming or fishing

**12** (1)  Every individual whose chief source of income is farming or fishing shall pay to the Provincial Minister,

(a) on or before the 31st day of December in each taxation year, two-thirds of,

(i) the amount estimated by the individual under section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable by the individual under this Act for the taxation year, computed without reference to section 127.3 of the Federal Act, or

(ii) the tax payable under this Act by the individual for the immediately preceding taxation year; and

(b) on or before the 30th day of April in the next following year, the remainder of the tax as estimated under section 151 of the Federal Act as it applies for the purposes of this Act. R.S.O. 1990, c. I.2, s. 12 (1); 1993, c. 29, s. 2; 1996, c. 24, s. 14 (1); 2004, c. 16, s. 3.

Idem, where collection agreement

(2)  Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that the individual is liable to pay under paragraph 155 (1) (a) of the Federal Act. R.S.O. 1990, c. I.2, s. 12 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1996, c. 24, s. 14 (1) - 1/07/1994

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Payment of tax by other individuals

**13** (1)  Every individual, other than an individual to whom section 12 applies, shall pay to the Provincial Minister in each taxation year the aggregate of,

(a) on account of tax payable under this Act for that year,

(i) on or before the 15th day of March, June, September and December in the taxation year, an amount equal to one-quarter of,

(A) the amount estimated by the individual under section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable by the individual under this Act for the taxation year, or

(B) the individual’s instalment base under this Act for the immediately preceding taxation year, or

(ii) on or before,

(A) the 15th day of March and June in the taxation year, an amount equal to one-quarter of the individual’s instalment base for the second preceding taxation year, and

(B) the 15th day of September and December in the year, an amount equal to one-half of the amount, if any, by which the individual’s instalment base for the preceding taxation year exceeds one-half of the individual’s instalment base for the second preceding taxation year,

plus,

(b) on or before the 30th day of April in the next following year, the remainder of the tax as estimated under section 151 of the Federal Act, as it applies for the purposes of this Act. 1993, c. 29, s. 9; 1996, c. 24, s. 15 (1); 2004, c. 16, s. 3.

Instalment base

(1.1)  In this section, the instalment base of an individual for a taxation year means the amount determined in the prescribed manner to be his or her instalment base for the year. 1993, c. 29, s. 9; 2004, c. 16, s. 3.

Mutual fund trusts

(2)  Despite subsection (1), the amount payable by a mutual fund trust, within the meaning of subsection 132 (6) of the Federal Act, to the Provincial Minister on or before any day referred to in clause (1) (a) in a taxation year shall be deemed to be the amount, if any, by which,

(a) the amount so payable otherwise determined under that subsection,

exceeds,

(b) 25 per cent of the trust’s capital gains refund (within the meaning assigned by subsection 4 (8)) for the taxation year. R.S.O. 1990, c. I.2, s. 13 (2); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Idem, where collection agreement

(3)  Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that the individual is liable to pay under subsection 156 (1) of the Federal Act. R.S.O. 1990, c. I.2, s. 13 (3); 1996, c. 24, s. 15 (2); 2004, c. 16, s. 3.

When no instalment required

(4)  Where no federal instalments are required pursuant to section 156.1 of the Federal Act, the requirements for payment by instalments under sections 12 and 13 of this Act are not applicable, and the individual shall on or before the 30th day of April next following the taxation year pay to the Provincial Minister the individual’s estimated tax payable for that taxation year. R.S.O. 1990, c. I.2, s. 13 (4); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1993, c. 29, s. 9 - 10/06/1993; 1996, c. 24, s. 15 (1) - 1/07/1994; 1996, c. 24, s. 15 (2) - 1/01/1992

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Returns, payments and interest

**14** Subsections 70 (2) and 104 (2), paragraphs 104 (23) (d) and (e), subsection 150 (4), sections 158, 159 and 160, subsections 160.1 (1) and (4), sections 160.2 and 160.3, subsections 161 (1), (2), (2.1), (2.2), (4), (4.01), (5), (6), (6.1), (6.2), (7), (9) and (11) and sections 221.1 and 221.2 of the Federal Act apply for the purposes of this Act. 2000, c. 42, s. 60; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 60](http://www.ontario.ca/laws/statute/S00042" \l "s60) - 1/01/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Daily interest

**15** Interest computed under subsection 8.8 (2) of this Act or under any of subsections 160.1 (1), 161 (1), (2) and (11), 164 (3), (3.1), (3.2) and (4) and 227 (8.3) and (9.2) of the Federal Act, as they apply for the purposes of this Act, shall be compounded daily and, if interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for this section, have ceased to be computed under that provision, interest at the rate provided by that provision shall be compounded daily on unpaid interest from that day to the day it is paid. 2000, c. 42, s. 61; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2000, c. 42, s. 61](http://www.ontario.ca/laws/statute/S00042" \l "s61) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Refund of tax credits

**16** In applying subsection 160.1 (1) of the Federal Act for the purposes of this Act,

“refund” includes a refund that arises by reason of a provision of this Act, other than section 8.5, that,

(a) allows a taxpayer to deduct an amount from the tax payable under this Act, or

(b) deems an amount to have been paid by a taxpayer as or on account of tax payable under this Act by the taxpayer. R.S.O. 1990, c. I.2, s. 16; 1998, c. 34, s. 76; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 76 - 1/07/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Amount on which instalment computed

**17** Where a collection agreement is in effect and a taxpayer is deemed under subsection 161 (4) or 161 (4.01) of the Federal Act to be liable to pay, in respect of tax payable under Part I of the Federal Act for a particular taxation year, a part or instalment computed by reference to an amount described in subsection 161 (4) or 161 (4.01) of the Federal Act, the taxpayer shall be deemed for the purposes of subsection 161 (2) of the Federal Act, as it applies for the purposes of this Act, to be liable to pay, in respect of tax payable under this Act for the particular year, a part or instalment computed by reference to the same paragraph of subsection 161 (4) or 161 (4.01) of the Federal Act, as it applies for the purposes of this Act. 1993, c. 29, s. 11; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 11 - 10/06/1993

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

penalties

Penalties, returns

Penalty for failure to file a return

**18** (1)  Every person who fails to file a return of income for an individual for a taxation year as and when required by subsection 9 (1) is liable to a penalty equal to the aggregate of,

(a) an amount equal to 5 per cent of the individual’s tax for the year under this Act that was unpaid when the return was required to be filed; and

(b) the product obtained when 1 per cent of the individual’s tax for the year under this Act that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twelve, from the date on which the return was required to be filed to the date on which the return was filed. R.S.O. 1990, c. I.2, s. 18 (1); 2004, c. 16, s. 3.

Penalty for repeated failure to file returns

(2)  Every person,

(a) who fails to file a return of income for a taxation year as and when required by subsection 9 (1);

(b) on whom a demand for a return for the year has been made under subsection 150 (2) of the Federal Act, as it applies for the purposes of this Act; and

(c) who, at the time of failure, had been assessed for a penalty under subsection (1) or this subsection in respect of a return of income for any of the three preceding taxation years,

is liable to a penalty equal to the aggregate of,

(d) an amount equal to 10 per cent of the individual’s tax for the year under this Act that was unpaid when the return was required to be filed; and

(e) the product obtained when 2 per cent of the individual’s tax for the year under this Act that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twenty, from the date on which the return was required to be filed to the date on which the return was filed. R.S.O. 1990, c. I.2, s. 18 (2); 2004, c. 16, s. 3.

Idem

(3)  Every person who fails to file a return as required by subsection 150 (3) of the Federal Act, as it applies for the purposes of this Act, is liable to a penalty of $10 for each day of default, to a total penalty of $50. R.S.O. 1990, c. I.2, s. 18 (3); 2004, c. 16, s. 3.

Failure to provide information

(4)  Every person who fails to provide any information required under this Act or a regulation, or under a provision of the Federal Act or of the Federal Regulations which applies for the purposes of this Act is, except where, in the case of an individual, the Minister has waived the penalty, liable to a penalty of $100 for every failure unless, in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person. R.S.O. 1990, c. I.2, s. 18 (4); 2004, c. 16, s. 3.

General penalty

(5)  Every person who fails,

(a) to make an information return as and when required under this Act or a regulation, or under a provision of the Federal Act or the Federal Regulations which applies for the purposes of this Act; or

(b) to comply with a duty or obligation imposed on the person under this Act or a regulation, or under a provision of the Federal Act or Federal Regulations which applies for the purposes of this Act,

is liable in respect of each such failure, except where another provision of this Act sets out a penalty for the failure, to a penalty equal to the greater of $100 and the product obtained when $25 is multiplied by the number of days, not exceeding 100, during which the failure continues. R.S.O. 1990, c. I.2, s. 18 (5); 2004, c. 16, s. 3.

Minister’s discretion where collection agreement in force

(6)  Where a collection agreement is in effect, the Minister may refrain from levying or may reduce a penalty payable under this section if the person who is liable to the penalty is required to pay a penalty under section 162 of the Federal Act in respect of the same failure. R.S.O. 1990, c. I.2, s. 18 (6); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Penalties, omissions and false statements

Penalty for repeated failure to report an amount

**19** (1)  Every person who,

(a) fails to report an amount required to be included in computing income in a return filed for a taxation year under subsection 150 (2), (3) or (4) of the Federal Act, as it applies for the purposes of this Act, or subsection 9 (1); and

(b) has failed to report an amount required to be included in any return filed for any of the three preceding taxation years under subsection 150 (2), (3) or (4) of the Federal Act, as it applies for the purposes of this Act, or subsection 9 (1),

is liable to a penalty equal to 10 per cent of the amount described in clause (a), unless the person is liable to a penalty under subsection (2) in respect of that amount. R.S.O. 1990, c. I.2, s. 19 (1); 2004, c. 16, s. 3.

False statements or omissions

(2)  Every person who, knowingly or under circumstances amounting to gross negligence, makes, participates in, assents to or acquiesces in the making of a false statement or omission in a return, form, certificate, statement, application or answer, in this section referred to as a “return”, that is filed or made in respect of a taxation year for the purposes of this Act or a regulation or a provision of the Federal Act or of the Federal Regulations as that provision applies for the purposes of this Act, is liable to a penalty of the greater of $100 and 50 per cent of the amount, if any, by which “A” exceeds “B” where,

“A” is the amount of tax for the year that would be payable under this Act after any refunds to which the individual is entitled for the year if this amount were calculated on the basis of correct and complete information, and

“B” is the tax for the year that would have been payable under this Act had the individual’s tax payable for the year been assessed and his or her rebates and refunds of tax for the year, if any, been determined on the basis of the information provided for the year. 2000, c. 42, s. 62; 2004, c. 16, s. 3.

Interpretation

(3)  For the purposes of subsection (2), the taxable income reported by a person in the person’s return for a taxation year shall be deemed not to be less than nil and the “understatement of income for a year” of a person has the meaning assigned to that expression by subsection 163 (2.1) of the Federal Act and shall be determined in the manner required by subsection 163 (4) of that Act. R.S.O. 1990, c. I.2, s. 19 (3); 1992, c. 25, s. 8; 2004, c. 16, s. 3.

Penalty

(3.1)  Every person, who knowingly, or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in the making of a false statement or omission in any application or other document filed or provided to the Provincial Minister under section 8.5 or 8.6 in respect of an individual is liable to a penalty, when assessed therefor, equal to the greater of $100 and 50 per cent of the amount by which “A” exceeds “B”, where,

“A” is the amount of the overpayment that would be deemed to arise under section 8.5 if the overpayment were computed based on the false statement or omission, and

“B” is the amount, if any, of the overpayment to which the individual is entitled under section 8.5. 1998, c. 34, s. 77; 2004, c. 16, s. 3.

Burden of proof

(4)  Where, in any appeal under this Act, a penalty assessed by the Minister under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister. R.S.O. 1990, c. I.2, s. 19 (4); 2004, c. 16, s. 3.

Minister’s discretion where collection agreement in force

(5)  Where a collection agreement is in effect, the Minister may refrain from levying or may reduce a penalty imposed under this section if the person who is liable to the penalty is required to pay a penalty under section 163 of the Federal Act in respect of the same failure or the same false statement or omission, as the case may be. R.S.O. 1990, c. I.2, s. 19 (5); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 8 - 10/12/1992; 1998, c. 34, s. 77 - 1/07/1998

[2000, c. 42, s. 62](http://www.ontario.ca/laws/statute/S00042" \l "s62) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Late or deficient instalments

**20** Every person who fails to pay all or any part of an instalment of tax under this Act for a taxation year on or before the day on which the instalment is required to be paid by this Act, or by a provision of the Federal Act that applies for the purposes of this Act, is liable to a penalty equal to 50 per cent of the amount, if any, by which the interest payable by the person in respect of all instalments for the year under section 161 of the Federal Act, as it applies for the purposes of this Act, exceeds the greater of,

(a) $1,000; and

(b) 25 per cent of the interest that would have been payable by the person in respect of all instalments for the year under section 161 of the Federal Act, as it applies for the purposes of this Act, if no instalments had been made for that year. R.S.O. 1990, c. I.2, s. 20; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

refund of overpayment

Refunds

**21** (1)  Subsections 164 (1), (1.1), (1.2), (1.3), (1.5), (1.31), (2), (3), (3.1), (3.2), (4), (4.1), (5), (5.1), (6), (6.1) and (7) of the Federal Act apply for the purposes of this Act other than section 8.5. 1992, c. 25, s. 9; 1993, c. 29, s. 12; 1998, c. 34, s. 78 (1); 2004, c. 16, s. 3.

Refund based on Federal refunds

(2)  Where a collection agreement is in effect and, by reason of a decision referred to in subsection 164 (4.1) of the Federal Act, a repayment of tax, interest or penalties under that Act for a taxation year is made to a taxpayer, or any security accepted under that Act for such tax, interest or penalties is surrendered to the taxpayer, subsection 164 (4.1) of the Federal Act, as it applies for the purposes of this Act, applies to any overpayment of tax, interest or penalties under this Act for the taxation year that arises by reason of the decision. R.S.O. 1990, c. I.2, s. 21 (2); 2004, c. 16, s. 3.

Refund

(3)  Subject to subsections (4) and (5), the Provincial Minister shall pay to a taxpayer the amount, if any, of any overpayment under this Act that would otherwise be refunded to the taxpayer in respect of a taxation year. 1997, c. 43, Sched. B, s. 7; 2004, c. 16, s. 3.

Use of refund to pay liabilities

(4)  If a taxpayer is liable or about to become liable to make a payment to Her Majesty in right of Canada or Her Majesty in right of Ontario or another province, the Provincial Minister may apply all or part of the amount referred to in subsection (3) to pay that liability. 1997, c. 43, Sched. B, s. 7; 2004, c. 16, s. 3.

Donation of refund

(5)  If a taxpayer indicates in the taxpayer’s return of income tax for a taxation year that the taxpayer wishes to make a gift to Her Majesty in right of Ontario of the amount referred to in subsection (3), or any portion of that amount, the Provincial Minister may apply the amount or the portion, as the case may be, or any lesser amount, for that purpose. 1997, c. 43, Sched. B, s. 7; 2004, c. 16, s. 3.

Effect of donation

(6)  An amount applied by the Provincial Minister for the purpose referred to in subsection (5) shall be deemed to have been paid to the taxpayer at the time notice of an original assessment of tax payable for the year or a notification that no tax is payable by the individual for the year is sent to the individual. 1997, c. 43, Sched. B, s. 7; 2004, c. 16, s. 3.

Exception

(7)  Subsections (4) and (5) do not apply to amounts that are deemed overpayments under section 8.5. 1998, c. 34, s. 78 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 9 - 10/12/1992; 1993, c. 29, s. 12 - 10/06/1993; 1997, c. 43, Sched. B, s. 7 - 18/12/1997; 1998, c. 34, s. 78 (1, 2) - 1/07/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

objections to assessments

Objections to assessments

**22** Section 165 of the Federal Act applies for the purposes of this Act, but not in respect of objections to which section 22.1 applies. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 79 - 1/07/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Rules for objections

Objection, deemed overpayment

**22.1**  (1)  An individual may object to a determination made under section 8.5 or 8.7 or subsection 10 (4) or the determination of a tax incentive under section 8.9 by serving on the Provincial Minister a notice of objection in a form approved by the Provincial Minister. 2004, c. 31, Sched. 19, s. 15 (1).

Time

(1.1)  The notice of objection must be served not later than 90 days after the day on which the notice of entitlement in respect of the determination is sent. 2000, c. 42, s. 63 (1); 2004, c. 16, s. 3.

Issues not subject to objection

(2)  An individual shall not raise by way of objection under subsection (1) any issue related to whether a person is a “cohabiting spouse or common-law partner”, “eligible individual” or “qualified dependant” within the meaning of section 8.5. 2001, c. 23, s. 136 (1); 2004, c. 16, s. 3.

Issues on objection

(3)  In an objection under subsection (1), the individual may raise issues about the following matters only:

1. Whether the individual is entitled to a refund under section 8.7 or a tax incentive under section 8.9.

2. The residence of the individual, if the subject of the objection is an Ontario child care supplement for working families under section 8.5, a refund under section 8.7 or a tax incentive under section 8.9.

3. The calculation of the amount to which the individual is entitled under section 8.5, 8.7 or 8.9 or the determination of amounts used in the calculation, but not the calculation of an amount determined under the Federal Act or determined by reference to an amount determined under the Federal Act. 2004, c. 31, Sched. 19, s. 15 (2).

Content of notice of objection

(4)  The notice of objection shall,

(a) clearly describe each issue raised by way of objection; and

(b) fully set out the facts and reasons relied on by the individual in respect of each issue. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Additional information

(5)  If a notice of objection does not fully set out the facts and reasons relied on by the individual in respect of an issue, the Provincial Minister may in writing request the individual to provide the information, and the individual shall be deemed to have complied with clause (4) (b) in respect of the issue if the individual provides the information to the Provincial Minister in writing within 60 days after the day the request is made by the Provincial Minister, but if the individual does not comply within that time, the Provincial Minister may, at his or her discretion, consider the notice of objection to be void and the determination of the Provincial Minister to be final and binding on the individual. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Calculating time limits

(6)  For the purposes of calculating the number of days mentioned in subsections (1) and (5),

(a) a notice of entitlement referred to in subsection (1) shall be deemed to have been sent on the date stated in the notice; and

(b) a request for information under subsection (5) shall be deemed to have been made on the date stated in the notice. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Service of notice of objection

(7)  Service of a notice of objection under this section shall be by registered mail addressed to the Provincial Minister or by another method that is prescribed. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Same

(8)  The Provincial Minister may accept a notice of objection under this section even though the notice was not served in the manner required by subsection (7). 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Extension of time

(9)  The time within which a notice of objection is to be served may be extended by the Provincial Minister if application for the extension is made within 180 days from the day of mailing of the notice of entitlement which is the subject of the objection. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Reconsideration by Provincial Minister

(10)  Upon receipt of a notice of objection, the Provincial Minister shall, as quickly as possible, reconsider the determination and confirm or vary it. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Notification

(11)  The Provincial Minister shall notify the individual in writing as to the action taken by the Provincial Minister under subsection (10) as quickly as possible after taking the action. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Decision final

(12)  The Provincial Minister’s decision under subsection (10) is final and is not subject to appeal unless the decision involves the interpretation of a provision of this Act or involves an issue solely of law. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

Appeal on question of law

(13)  If an individual disagrees with the decision of the Provincial Minister under subsection (10), the individual and the Provincial Minister may agree in writing as to the undisputed facts and then the Provincial Minister may apply to the Superior Court of Justice to have the issue in dispute determined if,

(a) under subsection (3), the issue in dispute may be raised on an objection;

(b) the issue in dispute is not an issue that the individual is not entitled to raise on objection by reason of subsection (2); and

(c) the issue in dispute involves the interpretation of a provision of this Act or is solely an issue of law in which no facts are in dispute, or the issue in dispute involves the proper inference to be drawn from facts that are not in dispute. 1998, c. 34, s. 79; 1999, c. 9, s. 126; 2001, c. 23, s. 136 (2); 2004, c. 16, s. 3.

Same

(14)  If the Provincial Minister does not apply to the court under subsection (13) within six months after the date on which the Provincial Minister and the individual have both agreed in writing on the facts, the individual may apply to the court to have the issue determined. 1998, c. 34, s. 79; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 79 - 1/07/1998; 1999, c. 9, s. 126 - 1/07/1998

[2000, c. 10, s. 17 (1)](http://www.ontario.ca/laws/statute/S00010" \l "s17s1) - 23/06/2000; [2000, c. 42, s. 63 (1, 2)](http://www.ontario.ca/laws/statute/S00042" \l "s63s1) - 21/12/2000

[2001, c. 23, s. 136 (1)](http://www.ontario.ca/laws/statute/S01023" \l "s136s1) - 1/01/2001; [2001, c. 23, s. 136 (2)](http://www.ontario.ca/laws/statute/S01023" \l "s136s2) - 5/12/2001

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 15 (1, 2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s15s1) - 27/03/2003

Division E — Appeals to the Superior Court of Justice

Right of appeal

**23** (1)  A taxpayer who has served a notice of objection to an assessment under subsection 165 (1) of the Federal Act, as it applies for the purposes of this Act, may appeal to the Superior Court of Justice to have the assessment vacated or varied,

(a) within ninety days from the date notice is mailed to the taxpayer in accordance with subsection 165 (3) of the Federal Act, as it applies for the purposes of this Act, that the Provincial Minister has confirmed the assessment or reassessed; or

(b) after ninety days have elapsed after service of the notice of objection and the Provincial Minister has not notified the taxpayer that the assessment has been vacated or confirmed or that a reassessment of the tax will be issued. 1992, c. 25, s. 10 (1); 2001, c. 23, s. 137 (1); 2004, c. 16, s. 3.

Basis for appeal

(2)  In the course of disposing of an appeal from an assessment under this Act, the Court may make a determination in respect of any question relating to,

(a) the residence of a taxpayer for the purposes of the Act;

(b) the amount of income of a taxpayer earned in a taxation year in Ontario for the purposes of section 4;

(c) the amount of tax payable by a taxpayer for a taxation year, based on the amount of tax payable under the Federal Act for that year as defined in section 4;

(d) the amount of tax payable by a qualifying environmental trust under section 2.1;

(d.1) the amount of the Ontario Health Premium payable by a taxpayer for a taxation year, based on the amount of the individual’s taxable income for that year;

(e) the amount of any deduction under section 8;

(f) the application of any amount under subsection 8 (10);

(f.1) the amount of an Ontario child benefit, if any, payable to an individual under section 8.6.2; and

(g) the liability of a director to pay an amount under section 38. 1996, c. 24, s. 17; 1998, c. 34, s. 80; 2004, c. 16, s. 3; 2004, c. 29, s. 8; 2007, c. 7, Sched. 17, s. 5.

Same

(2.1)  No appeal from an assessment may be taken in respect of the computation of the amount of tax payable under the Federal Act as defined in section 4. 1996, c. 24, s. 17; 2004, c. 16, s. 3.

Notice of appeal

(3)  An appeal under this section shall be instituted by serving upon the Provincial Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the local registrar of the Superior Court of Justice. R.S.O. 1990, c. I.2, s. 23 (3); 2001, c. 23, s. 137 (2); 2004, c. 16, s. 3.

Service of notice

(4)  A notice of appeal shall be served upon the Provincial Minister by being sent by registered mail addressed to the Provincial Minister. R.S.O. 1990, c. I.2, s. 23 (4); 2004, c. 16, s. 3.

Contents of notice

(5)  The taxpayer appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that the taxpayer intends to submit in support of the appeal. R.S.O. 1990, c. I.2, s. 23 (5); 2004, c. 16, s. 3.

(6)  Repealed: 1992, c. 25, s. 10 (2).

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 10 (1, 2) - 10/12/1992; 1996, c. 24, s. 17 - 23/02/1994; 1998, c. 34, s. 80 - 1/01/1997

[2001, c. 23, s. 137 (1, 2)](http://www.ontario.ca/laws/statute/S01023" \l "s137s1) - 5/12/2001

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004; [2004, c. 29, s. 8](http://www.ontario.ca/laws/statute/S04029" \l "s8) - 1/01/2004

[2007, c. 7, Sched. 17, s. 5](http://www.ontario.ca/laws/statute/S07007" \l "sched17s5) - 17/05/2007

Reply

**24** (1)  The Provincial Minister shall, within sixty days from the day the notice of appeal is received or within such further time as a judge of the court may either before or after the expiration of that time allow, serve on the appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Provincial Minister intends to rely on. R.S.O. 1990, c. I.2, s. 24 (1); 2004, c. 16, s. 3.

Striking out or amending notice of appeal

(2)  A judge of the court may, in his or her discretion, strike out a notice of appeal or any part thereof for failure to comply with subsection 23 (5) and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out. R.S.O. 1990, c. I.2, s. 24 (2); 2004, c. 16, s. 3.

Idem

(3)  A judge of the court may, in his or her discretion,

(a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply; or

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order. R.S.O. 1990, c. I.2, s. 24 (3); 2004, c. 16, s. 3.

Disposal of appeal where notice struck out

(4)  Where a notice of appeal is struck out for failure to comply with subsection 23 (5) and a new notice of appeal is not filed as and when permitted by a judge of the court, a judge of the court may, in his or her discretion, dispose of the appeal by dismissing it. R.S.O. 1990, c. I.2, s. 24 (4); 2004, c. 16, s. 3.

Disposal of appeal where reply struck out

(5)  Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by a judge of the court within the time ordered, a judge of the court may dispose of the appeal without notice or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1990, c. I.2, s. 24 (5); 2004, c. 16, s. 3.

Disposition of appeal on consent

(6)  Despite subsection 10 (1), for the purpose of disposing of an appeal, the Provincial Minister may at any time with the consent in writing of the taxpayer reassess tax, interest, penalties or other amounts payable under this Act by the taxpayer. 1993, c. 29, s. 13; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 13 - 10/06/1993

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Appeal deemed an action

**25** (1)  Upon the filing of the material referred to in sections 23 and 24, the matter shall be deemed to be an action in the court. 1993, c. 29, s. 14; 2004, c. 16, s. 3.

Pleading of other matters

(2)  Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1990, c. I.2, s. 25 (2); 2004, c. 16, s. 3.

Disposal of appeal

(3)  The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Provincial Minister for reconsideration and reassessment. R.S.O. 1990, c. I.2, s. 25 (3); 2004, c. 16, s. 3.

Order for payment

(4)  The court may, in delivering judgment disposing of an appeal, order payment or repayment of tax, interest, penalties or costs by the taxpayer or the Provincial Minister. R.S.O. 1990, c. I.2, s. 25 (4); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 14 - 14/12/1993

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Procedure

**26** (1)  Sections 166, 179 and 179.1 of the Federal Act apply for the purposes of this Act. 1996, c. 24, s. 18 (1); 2004, c. 16, s. 3.

Time extensions

(2)  Sections 166.1, 166.2 and 167 of the Federal Act apply for the purposes of this Act. 1992, c. 25, s. 11; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 11 - 10/12/1992; 1996, c. 24, s. 18 (1) - 11/06/1993

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

PART III  
ADMINISTRATION AND ENFORCEMENT

Administration

Administration, garnishment, collection

**27** Sections 220, 224, 225.1 and 225.2 of the Federal Act apply for the purposes of this Act. R.S.O. 1990, c. I.2, s. 27; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Remission of provincial portion of federal tax remitted

**28** (1)  Where, pursuant to the Financial Administration Act (Canada), remission is granted of any tax, interest or penalty paid under the Federal Act by or for an individual, and where any tax, interest or penalty was paid by that individual under this Act in respect of the same circumstances that gave rise to the remission granted under the Financial Administration Act (Canada), the Provincial Minister may, if he or she considers that the circumstances are sufficiently similar and that a remission of any money paid under this Act should be granted either in the public interest or for the relief of hardship, grant remission of all or any part of any tax, interest or penalty paid under this Act in such circumstances, and may authorize the repayment to the person entitled thereto of any amount remitted by the Provincial Minister in accordance with this section. R.S.O. 1990, c. I.2, s. 28 (1); 2004, c. 16, s. 3.

Idem

(2)  Where a remission referred to in subsection (1) has been granted to an individual under the Financial Administration Act (Canada) in respect of a taxation year, the Provincial Minister may, by order, authorize the acceptance by the Minister of a claim from the individual for a deduction or an additional deduction under section 8 in respect of the taxation year, if the Provincial Minister considers the allowance of the deduction, or the additional deduction, to be in the public interest or for the relief of undue hardship. R.S.O. 1990, c. I.2, s. 28 (2); 1998, c. 5, s. 4 (1); 2004, c. 16, s. 3.

(3)  Repealed: 1998, c. 5, s. 4 (2).

Delegation to federal minister

(4)  Despite any other provision of this Act, if a collection agreement is in force, the Provincial Minister may authorize the Minister in writing to exercise the Provincial Minister’s power and discretion to grant a remission under subsection (1) or to accept a claim for a deduction under subsection (2) when the Minister considers it to be in the public interest to do so in order to,

(a) correct an erroneous assessment of tax;

(b) remedy incorrect tax advice from an employee of the Canada Revenue Agency; or

(c) relieve undue hardship. 1997, c. 10, s. 5; 1999, c. 9, s. 127; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 5 - 26/06/1997; 1998, c. 5, s. 4 (1, 2) - 26/06/1998; 1999, c. 9, s. 127 - 1/11/1999

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

[CTS 16 MR 10 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

Regulations

**29** (1)  The Lieutenant Governor in Council may make regulations,

(a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;

(b) providing in any case of doubt the circumstances in which, and extent to which, the Federal Regulations apply;

(c) generally to carry out the purposes of this Act;

(d) authorizing or requiring any officer of the Ministry of Finance to exercise any power or perform any duty conferred or imposed upon the Provincial Minister by this Act;

(e) prescribing the maximum tax credit or the method of determining the maximum tax credit permitted for a taxation year in respect of investments made by a taxpayer in corporations registered under Part III of the Community Small Business Investment Funds Act, 1992 for the purposes of subsection 8 (8.1.1);

(f) defining any word or expression used in this Act or a regulation that has not been expressly defined in the Act. R.S.O. 1990, c. I.2, s. 29 (1); 1996, c. 24, s. 19; 1997, c. 43, Sched. B, s. 8; 1998, c. 34, s. 81; 2004, c. 16, s. 3.

Application of Federal Regulations

(2)  Except to the extent that they are inconsistent with any regulations made under subsection (1) or are expressed by any regulation made under subsection (1) to be inapplicable, the Federal Regulations made under section 221 of the Federal Act apply with necessary modifications for the purposes of this Act with respect to all matters enumerated in that section. R.S.O. 1990, c. I.2, s. 29 (2); 2004, c. 16, s. 3.

Publication of Regulations

(3)  No regulation made under this Act or under the Federal Act where it is applicable with necessary modifications has effect for the purposes of this Act until it has been published in The Ontario Gazette or the Canada Gazette, as the case may be, but, when so published, a regulation is, if it so provides, effective with reference to a period before it was published. R.S.O. 1990, c. I.2, s. 29 (3); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1996, c. 24, s. 19 (1, 2) - 31/10/1996; 1997, c. 43, Sched. B, s. 8 - 18/12/1997; 1998, c. 34, s. 81 - 18/12/1998

[2004, c. 16, s. 3](http://www.ontario.ca/laws/statute/S04016" \l "s3) - 1/01/2004

Report about revenue from the Ontario Health Premium

**29.1**The Public Accounts for each fiscal year shall include information about the use of the revenue from the Ontario Health Premium. 2004, c. 29, s. 9.

**Section Amendments with date in force (d/m/y)**

[2004, c. 29, s. 9](http://www.ontario.ca/laws/statute/S04029" \l "s9) - 1/01/2004

Review of Ontario Health Premium

**29.2**(1)  A standing or select committee of the Assembly shall be appointed to review the Ontario Health Premium within four years after this section comes into force. 2004, c. 29, s. 9.

Same

(2)  The committee shall begin its review on or after the date specified by the Assembly, which date shall be no earlier than June 30, 2008, and shall report the results of its review to the Assembly no later than December 31, 2008. 2004, c. 29, s. 9.

**Section Amendments with date in force (d/m/y)**

[2004, c. 29, s. 9](http://www.ontario.ca/laws/statute/S04029" \l "s9) - 1/01/2004

Enforcement

Taxes, etc., are debts

**30** All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act. R.S.O. 1990, c. I.2, s. 30; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Certificate of amount payable

**31** (1)  An amount payable under this Act by a person (in this section referred to as a “debtor”) that has not been paid, or any part of an amount payable under this Act by the debtor that has not been paid, may be certified by the Minister as an amount payable by the debtor. R.S.O. 1990, c. I.2, s. 31 (1); 2004, c. 16, s. 3.

Registration of certificate in court

(2)  On production to the Superior Court of Justice, a certificate made under subsection (1) in respect of a debtor shall be registered in the court and when so registered has the same effect, and all steps may be taken thereon as if the certificate were a judgment obtained in the court against the debtor for a debt in the amount certified plus interest thereon to the day of payment as provided by law and, for the purposes of any such steps, the certificate shall be deemed to be a judgment of the court against the debtor for a debt due to Her Majesty in right of Ontario, enforceable in the amount certified plus interest thereon to the day of payment as provided by law. R.S.O. 1990, c. I.2, s. 31 (2); 2001, c. 23, s. 138; 2004, c. 16, s. 3.

Costs

(3)  All reasonable costs and charges incurred or paid in respect of the registration in the court of a certificate made under subsection (1) or in respect of any steps taken to collect an amount certified are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered. R.S.O. 1990, c. I.2, s. 31 (3); 2004, c. 16, s. 3.

Proceeding under s. 223 of Federal Act

(4)  Where a collection agreement is in effect, subsections (1) to (3) do not apply, but the Minister may proceed under section 223 of the Federal Act for the purpose of collecting any amount payable under this Act by a taxpayer. R.S.O. 1990, c. I.2, s. 31 (4); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2001, c. 23, s. 138](http://www.ontario.ca/laws/statute/S01023" \l "s138) - 5/12/2001

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Warrant for collection of indebtedness

**32** The Provincial Minister may issue a warrant, directed to the sheriff for any area in which any property of the taxpayer is located or situate, for the amount of the tax, interest and penalty or any of them owing by the taxpayer, together with interest thereon from the date of the issue of the warrant and the costs, expenses and bonding of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Superior Court of Justice. R.S.O. 1990, c. I.2, s. 32; 2001, c. 23, s. 139; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2001, c. 23, s. 139](http://www.ontario.ca/laws/statute/S01023" \l "s139) - 5/12/2001

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Acquisition of debtor’s property

**33** For the purpose of collecting debts owed by a person to Her Majesty in right of Ontario under this Act, the Provincial Minister may purchase or otherwise acquire any interest in the person’s property that the Provincial Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest so acquired in such manner as the Provincial Minister considers reasonable. R.S.O. 1990, c. I.2, s. 33; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Money seized in criminal proceeding

Definition

**34** (1)  In this section,

“tax debtor” means a person who is liable to make a payment under this Act. 1996, c. 24, s. 20 (1); 2004, c. 16, s. 3.

Requirement to turn over money

(1.1)  Where the Provincial Minister knows or suspects that a particular person is holding money that was seized by a police officer in the course of administering or enforcing the criminal law of Canada from a tax debtor and that is restorable to the tax debtor, the Provincial Minister may in writing require the particular person to turn over the money otherwise restorable to the tax debtor in whole or in part to the Provincial Minister on account of the tax debtor’s liability under this Act. 1996, c. 24, s. 20 (1); 2004, c. 16, s. 3.

Receipt

(2)  The receipt of the Provincial Minister for money turned over as required by this section is a good and sufficient discharge of the requirement to restore the money to the tax debtor to the extent of the amount so turned over. R.S.O. 1990, c. I.2, s. 34 (2); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1996, c. 24, s. 20 (1) - 1/01/1993

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Direction to seize chattels

**35** (1)  Where a person has failed to pay an amount as required by this Act, the Minister, by registered mail addressed to the person’s last known address, may give thirty days notice to the person of the Minister’s intention to direct that the person’s goods and chattels be seized and sold, and, if the person fails to make the payment before the expiration of the thirty days, the Minister may issue a certificate of the failure and direct that the person’s goods and chattels that are located in the Province of Ontario be seized. R.S.O. 1990, c. I.2, s. 35 (1); 2004, c. 16, s. 3.

Idem

(2)  Subsections 225 (2), (3), (4) and (5) of the Federal Act apply for the purposes of this Act. R.S.O. 1990, c. I.2, s. 35 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Demand for payment

**36** (1)  Where the Provincial Minister suspects that a taxpayer has left or is about to leave Ontario or Canada, the Provincial Minister may, before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer’s latest known address, demand payment of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived, and that amount shall be paid forthwith despite any other provision of this Act. 1996, c. 24, s. 21; 2004, c. 16, s. 3.

Seizure of goods for failure to comply with demand

(2)  Where a taxpayer has failed to pay tax, interest or penalties demanded under this section as required, the Provincial Minister may direct that the goods and chattels of the taxpayer that are located in Ontario be seized, and thereupon subsections 225 (2), (3), (4) and (5) of the Federal Act apply. 1996, c. 24, s. 21; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1996, c. 24, s. 21 - 17/12/1991

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Money withheld

**37** (1)  Subsections 227 (1), (2), (3), (4), (4.1), (4.2), (5), (5.1), (8), (8.2), (8.3), (8.4), (9), (9.1), (9.2), (9.4) and (9.5) of the Federal Act apply for the purposes of this Act. 1996, c. 24, s. 22 (2); 1997, c. 10, s. 6 (1); 1999, c. 9, s. 128; 2004, c. 16, s. 3.

Assessment

(2)  The Minister may assess,

(a) any person for any amount that has been deducted or withheld by that person under this Act or a regulation made under this Act, or under a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act; and

(b) any person for any amount payable by that person under subsection 224 (4) or (4.1) or 227 (5), (5.1), (8), (8.3), (8.4), (9), (9.2), (9.4) or (9.5) of the Federal Act as they apply for the purposes of this Act, or section 38 or 41 of this Act. R.S.O. 1990, c. I.2, s. 37 (2); 1993, c. 29, s. 15 (2, 3); 1997, c. 10, s. 6 (2); 2004, c. 16, s. 3.

Application of ss. 10, 14-26

(3)  Section 10 and sections 14 to 26 apply with necessary modifications where the Minister sends a notice of assessment to a person mentioned in subsection (2). R.S.O. 1990, c. I.2, s. 37 (3); 2004, c. 16, s. 3.

Deduction provisions applicable to Crown

(4)  The provisions of this Act that require a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer are applicable to Her Majesty in right of Ontario. R.S.O. 1990, c. I.2, s. 37 (4); 2004, c. 16, s. 3.

Agreements not to deduct void

(5)  Where this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void. R.S.O. 1990, c. I.2, s. 37 (5); 2004, c. 16, s. 3.

Effect of receipt

(6)  The receipt of the Provincial Minister for an amount withheld or deducted by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to the debtor’s creditor with respect thereto to the extent of the amount referred to in the receipt. R.S.O. 1990, c. I.2, s. 37 (6); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1993, c. 29, s. 15 (2) - 1/01/1993; 1993, c. 29, s. 15 (3) - 31/12/1991; 1996, c. 24, s. 22 (2) - 15/06/1994; 1997, c. 10, s. 6 (1, 2) - 20/06/1996; 1999, c. 9, s. 128 - 15/06/1994

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Directors’ liability

**38** (1)  Where a corporation has failed to deduct or withhold an amount as required by subsection 153 (1) of the Federal Act, as it applies for the purposes of this Act, or has failed to remit such amount, the directors of the corporation at the time the corporation was required to deduct or withhold the amount, or remit the amount, are jointly and severally liable, together with the corporation, to pay any amount that the corporation is liable to pay under this Act in respect of that amount, including any interest or penalties related thereto. R.S.O. 1990, c. I.2, s. 38 (1); 2004, c. 16, s. 3.

Exception

(2)  A director shall not be liable under subsection (1) unless,

(a) a certificate for the amount of the corporation’s liability referred to in subsection (1) has been registered in the Superior Court of Justice under subsection 31 (2) and execution for such amount has been returned unsatisfied in whole or in part;

(b) the corporation has commenced a liquidation or dissolution proceeding or has been dissolved and a claim for the amount of the corporation’s liability referred to in subsection (1) has been proved within six months after the earlier of the date of commencement of the proceeding and the date of the dissolution; or

(c) the corporation has made an assignment or a receiving order has been made against it under the Bankruptcy and Insolvency Act (Canada) and a claim for the amount of the corporation’s liability referred to in that subsection has been proved within six months after the date of the assignment or receiving order. R.S.O. 1990, c. I.2, s. 38 (2); 1996, c. 24, s. 23; 2001, c. 23, s. 140; 2004, c. 16, s. 3.

Standard of care

(3)  A director is not liable for a failure under subsection (1) where the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances. R.S.O. 1990, c. I.2, s. 38 (3); 2004, c. 16, s. 3.

Limitation period

(4)  No action or proceeding to recover any amount payable by a director under subsection (1) shall be commenced more than two years after the director last ceased to be a director of that corporation. R.S.O. 1990, c. I.2, s. 38 (4); 2004, c. 16, s. 3.

Amount of liability

(5)  Where the execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. R.S.O. 1990, c. I.2, s. 38 (5); 2004, c. 16, s. 3.

Crown preference

(6)  Where a director pays an amount in respect of a corporation’s liability referred to in subsection (1) that is proved in a liquidation, dissolution or bankruptcy proceeding, the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had such amount not been so paid and, where a certificate that relates to such amount has been registered, the director is entitled to an assignment of the certificate to the extent of the director’s payment, which assignment the Provincial Minister is hereby authorized to make. R.S.O. 1990, c. I.2, s. 38 (6); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Directors’ recovery

(7)  A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim. R.S.O. 1990, c. I.2, s. 38 (7); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1996, c. 24, s. 23 - 30/11/1992

[2001, c. 23, s. 140](http://www.ontario.ca/laws/statute/S01023" \l "s140) - 5/12/2001

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

General

Records to be kept

**39** (1)  Every person carrying on business in Ontario and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at the person’s place of business or residence in Ontario or at such other place as is designated by the Provincial Minister, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined. R.S.O. 1990, c. I.2, s. 39 (1); 2004, c. 16, s. 3.

Books and records

(2)  Subsections 230 (2.1), (3), (4), (4.1), (4.2), (5), (6), (7) and (8) of the Federal Act apply for the purposes of this Act and, in the application thereof, any reference to subsection 230 (1) of the Federal Act shall be read as a reference to subsection (1). R.S.O. 1990, c. I.2, s. 39 (2); 1999, c. 9, s. 129; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 129 - 18/06/1998

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Inspections, privilege, information returns and corporate execution

**40** (1)  Sections 231 to 231.5, 232, 233 and 236 of the Federal Act and sections 158 to 160 of the Provincial Offences Act apply for the purposes of this Act. R.S.O. 1990, c. I.2, s. 40 (1); 2004, c. 16, s. 3.

Idem

(2)  Where a warrant is issued under section 158 of the Provincial Offences Act, the provisions of sections 158 to 160 of that Act, and not sections 231 to 231.5 and 232 of the Federal Act, apply for the purposes of this Act. R.S.O. 1990, c. I.2, s. 40 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Penalty for failure to comply with regulations

**41** (1)  Every person who fails to comply with a regulation made under paragraph 221 (1) (d) or (e) of the Federal Act, as it applies by virtue of subsection 29 (2) of this Act, is liable in respect of each failure to so comply to a penalty of $10 a day for each day of default but not more than $2,500 in all. R.S.O. 1990, c. I.2, s. 41 (1); 2004, c. 16, s. 3.

Idem

(2)  Every person who fails to comply with a regulation made under section 29 or incorporated by reference by virtue of subsection (2) thereof is liable to a penalty of $10 a day for each day of default but not more than $2,500 in all. R.S.O. 1990, c. I.2, s. 41 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Offences

Offence

**42** (1)  Every person is guilty of an offence who,

(a) fails to file a return as and when required by or under this Act or a regulation, or by or under a provision of the Federal Act or of the Federal Regulations as the provision applies for the purposes of this Act;

(a.1) fails to comply with section 8.6;

(b) fails to comply with any of subsections 153 (1), 227 (5) and 230 (3), (4) and (5) and sections 231 to 231.5 and 232 of the Federal Act, as they apply for the purposes of this Act; or

(c) fails to comply with subsection 39 (1). R.S.O. 1990, c. I.2, s. 42 (1); 1998, c. 34, s. 82; 2004, c. 16, s. 3.

Penalty

(2)  Every person who is guilty of an offence under subsection (1) is liable on conviction, in addition to any penalty otherwise provided, to a fine of not less than $1,000 and not more than $25,000. R.S.O. 1990, c. I.2, s. 42 (2); 2004, c. 16, s. 3.

Compliance order

(3)  A court that convicts a person of an offence under subsection (1) for failure to comply with a provision of this Act or a regulation, or a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act, may make such order as the court considers proper in order to enforce compliance with the provision. R.S.O. 1990, c. I.2, s. 42 (3); 2004, c. 16, s. 3.

Saving

(4)  A person convicted under this section for failure to comply with a provision of this Act or a regulation, or a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act, is not liable to a penalty under subsection 227 (8), (9) or (9.5) of the Federal Act, as those subsections apply for the purposes of this Act, or under section 18 or 41 for the same failure unless the person was assessed for that penalty or that penalty was demanded from the person before the information or complaint giving rise to the conviction was laid or made. R.S.O. 1990, c. I.2, s. 42 (4); 1993, c. 29, s. 16; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 16 - 1/01/1993; 1998, c. 34, s. 82 - 1/07/1998

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Offences, certain

**43** Every person who has,

(a) made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, a certificate, a statement, an application or other document filed or provided under section 8.5, 8.6 or 8.7 or regulations made under section 8.9, or an answer filed or made as required by or under this Act or a regulation or by or under a provision of the Federal Act or of the Federal Regulations as that provision applies for the purposes of this Act;

(b) destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer for the purpose of attempting to,

(i) evade the payment of tax imposed by this Act,

(ii) obtain a tax credit under section 8 in excess of the amount, if any, otherwise deductible or payable, as the case may be, under section 8, or

(iii) obtain for the benefit of the person or another person an amount under section 8.5, 8.7 or 8.9 in excess of the amount to which the person or other person is entitled under that section;

(c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a taxpayer;

(d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or

(e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on conviction to,

(f) a fine of not less than 50 per cent and not more than 200 per cent of the amount of the tax that was sought to be evaded, the amount of the tax credit sought under section 8 or the amount sought under section 8.5, 8.7 or 8.9, as applicable; or

(g) both the fine described in clause (f) and imprisonment for a term of not more than two years. R.S.O. 1990, c. I.2, s. 43; 1998, c. 34, s. 83 (1-3); 2000, c. 42, s. 64; 2004, c. 16, s. 3; 2004, c. 31, Sched. 19, s. 16.

**Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 83 (1-3) - 1/07/1998

[2000, c. 42, s. 64 (1-3)](http://www.ontario.ca/laws/statute/S00042" \l "s64s1) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 16 (1-3)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s16s1) - 27/03/2003

Ministerial discretion

**44** Where a collection agreement is entered into and a proceeding under section 238 or 239 of the Federal Act is commenced against any person, the Minister may take or refrain from taking any action against such person contemplated by section 42 or 43 of this Act, as the case may be. R.S.O. 1990, c. I.2, s. 44; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Offence, secrecy

**45** (1)  Every person is guilty of an offence who, while employed directly or indirectly in the administration of this Act or in the development and evaluation of tax policy for the Government of Ontario,

(a) knowingly provides, or knowingly allows to be provided taxpayer information to any person not legally entitled to receive it;

(b) knowingly allows any person to have access to any taxpayer information unless the person is legally entitled to have access to the information; or

(c) knowingly uses any taxpayer information otherwise than in the course of the administration or enforcement of this Act or the Taxation Act, 2007, in the development and evaluation of tax policy for the Government of Ontario or for the purpose for which it was provided under this Act or the Federal Act. 1993, c. 29, s. 17; 2004, c. 16, s. 3; 2007, c. 11, Sched. B, s. 4 (2).

Taxpayer information

(1.1)  In this section,

“taxpayer information” has the meaning assigned by subsection 241 (10) of the Federal Act. 1996, c. 24, s. 24 (1); 2004, c. 16, s. 3.

Penalty

(2)  Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment. R.S.O. 1990, c. I.2, s. 45 (2); 2004, c. 16, s. 3.

Where subs. (1) not applicable

(3)  Subsection (1) does not apply to the communication of information between,

(a) the Minister, the Minister of Finance and the Minister of Revenue; or

(b) the Minister, acting on behalf of Ontario, and the Provincial Minister, the Provincial Secretary-Treasurer, or the Minister of Finance of the government of,

(i) an agreeing province, or

(ii) a non-agreeing province to which an adjusting payment may be made under subsection 53 (2). R.S.O. 1990, c. I.2, s. 45 (3); 1993, c. 29, s. 2; 1996, c. 24, s. 24 (2); 2004, c. 16, s. 3; 2007, c. 7, Sched. 17, s. 6.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1993, c. 29, s. 17 - 14/12/1993; 1996, c. 24, s. 24 (1, 2) - 14/12/1993

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

[2007, c. 7, Sched. 17, s. 6](http://www.ontario.ca/laws/statute/S07007" \l "sched17s6) - 17/05/2007; [2007, c. 11, Sched. B, s. 4 (2)](http://www.ontario.ca/laws/statute/S07011" \l "schedbs4s2) - 4/06/2007

Liability of corporation officers

**46** Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1990, c. I.2, s. 46; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

No decrease in penalties

**47** Despite any other statute or law in force on the 15th day of December, 1961, a court has, in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act and a court has no power to suspend sentence. R.S.O. 1990, c. I.2, s. 47; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Procedure and Evidence

Procedure and evidence

Information

**48** (1)  An information under this Act may be laid by any officer of the Ministry of Finance, by a member of the Ontario Provincial Police, or by any person thereunto authorized by the Provincial Minister, and, where an information purports to have been laid under this Act, it shall be deemed to have been laid by a person thereunto authorized by the Provincial Minister and shall not be called in question for lack of authority of the informant except by the Provincial Minister or by some person acting for the Provincial Minister or Her Majesty. R.S.O. 1990, c. I.2, s. 48 (1); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Two or more offences

(2)  An information in respect of an offence under this Act may be for one or more offences, and no information, warrant, conviction or other step in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1990, c. I.2, s. 48 (2); 2004, c. 16, s. 3.

Limitation

(3)  An information or complaint under the Provincial Offences Act in respect of an offence under this Act may be laid or made on or before the day that is eight years after the day on which the subject-matter of the information or complaint arose. R.S.O. 1990, c. I.2, s. 48 (3); 2004, c. 16, s. 3.

Proof of service by mail

(4)  Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Ministry of Finance, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating such address, and that the officer identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof, and a true copy of the request, notice or demand, shall be received as proof, in the absence of evidence to the contrary, of the sending and of the request, notice or demand. R.S.O. 1990, c. I.2, s. 48 (4); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Proof of failure to comply

(5)  Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Ministry of Finance, sworn before a commissioner or other person authorized to take affidavits, setting out the officer has charge of the appropriate records and that after a careful examination and search of the records the officer has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, shall be received as proof, in the absence of evidence to the contrary, that in such case that person did not make the return, statement, answer or certificate, as the case may be. R.S.O. 1990, c. I.2, s. 48 (5); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Proof of time of compliance

(6)  Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Ministry of Finance, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that after careful examination of such records the officer has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as proof, in the absence of evidence to the contrary, that it was filed or made on that day and not prior thereto. R.S.O. 1990, c. I.2, s. 48 (6); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Proof of documents

(7)  An affidavit of an officer of the Ministry of Finance, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that the document annexed thereto is a document or true copy of a document made by or on behalf of the Provincial Minister or some person exercising the powers of the Provincial Minister or by or on behalf of a taxpayer, shall be received as proof, in the absence of evidence to the contrary, of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1990, c. I.2, s. 48 (7); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Print-out admissible in evidence

(7.1)  If a return or other document has been delivered by a person to the Minister or Provincial Minister on computer disk or by other electronic medium, or by electronic filing as permitted under this Act, a document, accompanied by the certificate of the Minister or Provincial Minister, as the case may be, or of a person authorized by the Minister or Provincial Minister, as applicable, stating that the document is a print-out of the return or document received by the Minister or Provincial Minister, as the case may be, from the person and certifying that the information contained in the document is a true and accurate representation of the return or document delivered by the person, is admissible in evidence and shall have the same probative force as the original return or document would have had if it had been delivered as a paper return or document. 1993, c. 29, s. 18; 2004, c. 16, s. 3.

Same

(7.2)  The Minister or Provincial Minister, or a person authorized by the Minister or Provincial Minister, may, for any purpose related to the administration or enforcement of this Act, reproduce from original data stored electronically any document previously issued by the Minister or Provincial Minister under this Act, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way. 1993, c. 29, s. 18; 2004, c. 16, s. 3.

Same

(7.3)  If the data printed on a return or other document received by the Minister or Provincial Minister from a person has been stored electronically by the Minister or Provincial Minister, as the case may be, on computer disk or other electronic medium and the return or other document has been destroyed by a person so authorized by the Minister or Provincial Minister, a document, accompanied by the certificate of the Minister or Provincial Minister or of a person authorized by the Minister or Provincial Minister, stating that the document is a print-out of the data contained on the return or other document received and stored electronically by the Minister or Provincial Minister, as the case may be, and certifying that the information contained in the document is a true and accurate representation of the data contained on the return or document delivered by the person, is admissible in evidence and shall have the same probative force as the original return or document would have had if it had been proved in the ordinary way. 1993, c. 29, s. 18; 2004, c. 16, s. 3.

Proof of no appeal

(8)  An affidavit of an officer of the Ministry of Finance, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Ministry and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, the officer has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed therefor, shall be received as proof, in the absence of evidence to the contrary, of the statement contained therein. R.S.O. 1990, c. I.2, s. 48 (8); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Presumption

(9)  Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Ministry of Finance, it is not necessary to prove the person’s signature or that the person is such an officer, nor is it necessary to prove the signature or official character of the person before whom the affidavit is sworn. R.S.O. 1990, c. I.2, s. 48 (9); 1996, c. 24, s. 25 (1); 2004, c. 16, s. 3.

Judicial notice

(10)  Judicial notice shall be taken of,

(a) all orders or regulations made under this Act; and

(b) a collection agreement entered into under this Act or any agreement for the collection by Canada of the taxes imposed under the income tax statute of an agreeing province,

without such orders, regulations or agreements being specially pleaded or proven. R.S.O. 1990, c. I.2, s. 48 (10); 2004, c. 16, s. 3.

Proof of documents

(11)  Every document purporting to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage or other document purporting to have been executed under, or in the course of administration or enforcement of, this Act over the name in writing of the Provincial Minister, the Provincial Minister’s deputy, or an officer authorized by regulation to exercise powers or perform duties of the Provincial Minister under this Act, shall be deemed to be a document signed, made and issued by the Provincial Minister, the Provincial Minister’s deputy or the officer unless it has been called in question by the Provincial Minister or by some person acting for the Provincial Minister or Her Majesty. R.S.O. 1990, c. I.2, s. 48 (11); 2004, c. 16, s. 3.

Day of mailing

(12)  For the purposes of this Act, the day of mailing of any notice or notification described in subsection 152 (4) or 166.1 (5) of the Federal Act as it applies for the purposes of this Act or of any notice of assessment shall be presumed to be the date of such notice or notification. R.S.O. 1990, c. I.2, s. 48 (12); 1992, c. 25, s. 12; 2004, c. 16, s. 3.

Day of receipt

(13)  For the purposes of this Act, anything sent by ordinary letter mail or its equivalent shall be deemed to have been received by the person to whom it is sent on the day that it was mailed, except that a remittance of an amount deducted or withheld as required by this Act or a regulation, or by a provision of the Federal Act or of the Federal Regulations as it applies for the purposes of this Act, shall be deemed to have been remitted on the day it is received by the Provincial Minister. R.S.O. 1990, c. I.2, s. 48 (13); 1993, c. 29, s. 2; 2004, c. 16, s. 3; 2009, c. 33, Sched. 16, s. 6 (2).

Date when assessment made

(14)  Where any notice of an assessment has been sent by the Provincial Minister as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of assessment. R.S.O. 1990, c. I.2, s. 48 (14); 2004, c. 16, s. 3.

Forms prescribed or authorized

(15)  Every form purporting to be a form prescribed or authorized by the Provincial Minister shall be deemed to be a form prescribed by order of the Provincial Minister under this Act unless called in question by the Provincial Minister or by some person acting for the Provincial Minister or Her Majesty. R.S.O. 1990, c. I.2, s. 48 (15); 2004, c. 16, s. 3.

Proof of provision of collection agreements

(16)  A document purporting to be a collection agreement entered into under this Act or an agreement with Canada for the collection of tax imposed under the income tax statute of an agreeing province that is,

(a) published in the Canada Gazette; or

(b) certified as such by or on behalf of,

(i) the Provincial Minister, or

(ii) the Provincial Treasurer, the Provincial Secretary-Treasurer or the Minister of Finance of the appropriate agreeing province,

shall be received as proof, in the absence of evidence to the contrary, of the contents thereof. R.S.O. 1990, c. I.2, s. 48 (16); 2004, c. 16, s. 3.

Proof of return

(17)  In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by the person or on the person’s behalf, shall be received as proof, in the absence of evidence to the contrary, that such return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by the person or on the person’s behalf. R.S.O. 1990, c. I.2, s. 48 (17); 2004, c. 16, s. 3.

Proof of certificate of the Provincial Minister

(18)  Every certificate by the Provincial Minister as to,

(a) a taxpayer’s tax payable under the Federal Act as defined in section 4; or

(b) a taxpayer’s income for the year as defined in section 4,

is proof, in the absence of evidence to the contrary, that a taxpayer’s tax payable under the Federal Act, or the taxpayer’s income for the year, as the case may be, is the amount set out therein. R.S.O. 1990, c. I.2, s. 48 (18); 2004, c. 16, s. 3.

Documents or certificates

(19)  Where a collection agreement is entered into, any document or certificate that is executed or issued by the Minister, the Commissioner of Customs and Revenue, or an official of the Canada Revenue Agency on behalf or in place of the Provincial Minister, the Provincial Minister’s deputy or an officer of the Provincial Minister’s Ministry, shall be deemed, for all purposes of this Act, to be executed or issued by the Provincial Minister, the Provincial Minister’s deputy or an officer of the Ministry of Finance, as the case may be. R.S.O. 1990, c. I.2, s. 48 (19); 1996, c. 24, s. 25 (1); 1999, c. 9, s. 130; 2004, c. 16, s. 3.

Royal Canadian Mounted Police

(20)  Where a collection agreement is entered into, a reference in this section to the Ontario Provincial Police shall be construed as a reference to the Royal Canadian Mounted Police. R.S.O. 1990, c. I.2, s. 48 (20); 2004, c. 16, s. 3.

(21)  Repealed: 1996, c. 24, s. 25 (2).

**Section Amendments with date in force (d/m/y)**

1992, c. 25, s. 12 - 10/12/1992; 1993, c. 29, s. 2 - 14/12/1993; 1993, c. 29, s. 18 - 14/12/1993; 1996, c. 24, s. 25 (1, 2) - 31/10/1996; 1999, c. 9, s. 130 - 1/11/1999

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

[2009, c. 33, Sched. 16, s. 6 (2)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s6s2) - 15/12/2009

[CTS 16 MR 10 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

PART IV  
COLLECTION OF TAX

Collection Agreement

Collection agreement

**49** (1)  The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into a collection agreement with the Government of Canada pursuant to which the Government of Canada will collect taxes payable under this Act on behalf of Ontario and will make payments to Ontario in respect of the taxes so collected in accordance with such terms and conditions as the collection agreement prescribes. R.S.O. 1990, c. I.2, s. 49 (1); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Supplemental agreements authorized

(2)  The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into an agreement amending the terms and conditions of a collection agreement entered into pursuant to subsection (1). R.S.O. 1990, c. I.2, s. 49 (2); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Transfer of powers and duties

(3)  Where a collection agreement is entered into, the Minister, on behalf of, or as agent for, the Provincial Minister, is hereby authorized to employ all the powers, to perform all the duties and to exercise any discretion that the Provincial Minister or the deputy head has under this Act including the discretion to refuse to permit the production in judicial or other proceedings in Ontario of any document that it is not, in the opinion of the Minister, in the interests of public policy to produce. R.S.O. 1990, c. I.2, s. 49 (3); 2004, c. 16, s. 3.

Idem

(4)  Where a collection agreement is entered into, the Commissioner of Customs and Revenue may,

(a) employ all the powers, perform the duties and exercise any discretion that the Minister has under subsection (3) or otherwise under this Act; and

(b) designate officers of the Canada Revenue Agency to carry out such functions, duties and powers as are similar to those that are exercised by them under the Federal Act on behalf of the Commissioner of Customs and Revenue. R.S.O. 1990, c. I.2, s. 49 (4); 1999, c. 9, s. 131; 2004, c. 16, s. 3.

Exception

(5)  Subsections (3) and (4) do not apply to the employment of powers, the exercise of discretion or the performance of duties under any section of this Act relating to the following or to any proceedings in connection with the following:

1. An Ontario child care supplement for working families under section 8.5.

2. A refund under section 8.7.

3. A tax incentive under section 8.9. 2004, c. 31, Sched. 19, s. 17 (1).

Authority to enter into agreement to collect other taxes

(5.1)  The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into one or more agreements with the Government of Canada pursuant to which the Government of Canada will collect, on behalf of Ontario, taxes payable under the Corporations Tax Act or the Mining Tax Act or amounts payable under section 89, 90, 93 or 94 of the Electricity Act, 1998 and make payments to Ontario in respect of the taxes or other amounts collected in accordance with the terms and conditions of the agreement. 2006, c. 9, Sched. F, s. 1.

Same

(5.2)  If an agreement described in subsection (5.1) is entered into, subsections (2), (3) and (4) apply with necessary modifications with respect to the agreement. 2006, c. 9, Sched. F, s. 1.

Payment of fees under collection agreement

(6)  All fees and other amounts payable to the Government of Canada under a collection agreement are a charge upon and payable out of the Consolidated Revenue Fund. 2004, c. 31, Sched. 19, s. 17 (2).

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993; 1999, c. 9, s. 131 (1, 2) - 1/11/1999

[2000, c. 42, s. 65](http://www.ontario.ca/laws/statute/S00042" \l "s65) - 21/12/2000

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004; [2004, c. 31, Sched. 19, s. 17 (1)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s17s1) - 27/03/2003; [2004, c. 31, Sched. 19, s. 17 (2)](http://www.ontario.ca/laws/statute/S04031" \l "sched19s17s2) - 16/12/2004

[2006, c. 9, Sched. F, s. 1](http://www.ontario.ca/laws/statute/S06009" \l "schedfs1) - 18/05/2006

[CTS 16 MR 10 - 2](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

Disclosure of corporate information by the Minister of Government Services

**49.1**(1)  Despite any other Act, the Minister of Government Services may, on behalf of the Government of Ontario, enter into one or more agreements with the Canada Revenue Agency, on behalf of the Government of Canada, providing,

(a) that the Minister of Government Services may disclose to the Canada Revenue Agency such information with respect to corporations as is specified in the agreement; and

(b) that the disclosure described in clause (a) shall be only for the purpose of enabling the Government of Canada to collect taxes payable under the Corporations Tax Act or other legislation that imposes taxes payable by corporations. 2007, c. 7, Sched. 17, s. 7.

Same

(2)  If an agreement described in subsection (1) is entered into, the Minister of Government Services,

(a) may disclose the information described in that subsection for the purposes set out in that subsection despite the provisions of any other Act; and

(b) shall disclose the information only in accordance with the terms and conditions of the agreement and for the purpose set out in subsection (1). 2007, c. 7, Sched. 17, s. 7.

Information

(3)  An agreement under subsection (1) may specify any information relating to a corporation that is contained in records maintained by the Ministry of Government Services or an official appointed by the Minister of Government Services regardless of when the information was first shown on the records and includes information filed by the corporation or another person or entity under any Act. 2007, c. 7, Sched. 17, s. 7.

Supplemental agreements

(4)  The Minister of Government Services may, on behalf of the Government of Ontario, enter into an agreement amending the terms and conditions of an agreement entered into under subsection (1). 2007, c. 7, Sched. 17, s. 7.

Same

(5)  Despite subsection (4), an amending agreement shall not permit the disclosure of any information by the Minister of Government Services,

(a) to any person other than the Canada Revenue Agency; or

(b) for any purpose other than the purpose described in clause (1) (b). 2007, c. 7, Sched. 17, s. 7.

**Section Amendments with date in force (d/m/y)**

[2007, c. 7, Sched. 17, s. 7](http://www.ontario.ca/laws/statute/S07007" \l "sched17s7) - 17/05/2007

Payments on Account

Application of payments by taxpayer

**50** (1)  A collection agreement may provide that, where any payment is received by the Minister on account of tax payable by a taxpayer for a taxation year under this Act, the Federal Act or an income tax statute of another agreeing province, or under any two or more such Acts or statutes, the payment so received may be applied by the Minister towards the tax payable by the taxpayer under any such Act or statute in such manner as is specified in the agreement, even if the taxpayer directed that the payment be applied in any other manner or made no direction as to its application. R.S.O. 1990, c. I.2, s. 50 (1); 2004, c. 16, s. 3.

No further liability

(2)  Any payment or part thereof applied by the Minister in accordance with a collection agreement towards the tax payable by a taxpayer for a taxation year under this Act,

(a) relieves the taxpayer of liability to pay such tax to the extent of the payment or part thereof so applied; and

(b) shall be deemed to have been applied in accordance with a direction made by the taxpayer. R.S.O. 1990, c. I.2, s. 50 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Deductions at Source

Where no action by employee

**51** Where a collection agreement is entered into and an amount is remitted to the Minister under subsection 153 (1) of the Federal Act, as it applies for the purposes of this Act, on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province,

(a) no action lies for the recovery of such amount by that individual; and

(b) the amount may not be applied in discharge of any liability of that individual under this Act. R.S.O. 1990, c. I.2, s. 51; 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Application of tax paid by employee

**52** (1)  Where a collection agreement is entered into, an individual resident in Ontario on the last day of the taxation year is not required to remit any amount on account of tax payable by the individual under this Act for the taxation year to the extent of the amount deducted or withheld on account of the individual’s tax for that year under the income tax statute of another agreeing province. R.S.O. 1990, c. I.2, s. 52 (1); 2004, c. 16, s. 3.

Idem

(2)  Where the total amount deducted or withheld on account of tax payable under this Act and under the income tax statute of another agreeing province by an individual resident in Ontario on the last day of the taxation year to whom subsection (1) applies exceeds the tax payable by the individual under this Act for that year, subsections 164 (1), (2) and (3) of the Federal Act, as they apply for the purposes of this Act, apply in respect of such individual as though the excess were an overpayment under this Act. R.S.O. 1990, c. I.2, s. 52 (2); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Adjustments between provinces

**53** (1)  In this section,

“adjusting payment” means a payment, calculated in accordance with this section, made by or on the direction of the Government of Ontario to a non-agreeing province; (“paiement de rajustement”)

“amount deducted or withheld” does not include any refund made in respect of that amount; (“montant déduit ou retenu”)

“non-agreeing province” means a province that is not an agreeing province. (“province non participante”) R.S.O. 1990, c. I.2, s. 53 (1); 2004, c. 16, s. 3.

Adjustments between Ontario and non-agreeing province

(2)  Where in respect of a taxation year a non-agreeing province is authorized to make a payment to Ontario that, in the opinion of the Provincial Minister, corresponds to an adjusting payment, the Lieutenant Governor in Council may authorize the Provincial Minister to make an adjusting payment to that non-agreeing province and enter into any agreement that may be necessary to carry out the purposes of this section. R.S.O. 1990, c. I.2, s. 53 (2); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Basis of payment under collection agreement

(3)  Where a collection agreement is entered into, the adjusting payment that may be made pursuant to subsection (2) may be made by the Government of Canada where it has agreed to act on the direction of Ontario as communicated by the Provincial Minister to the Minister. R.S.O. 1990, c. I.2, s. 53 (3); 1993, c. 29, s. 2; 2004, c. 16, s. 3.

Calculation of adjusting payment

(4)  The adjusting payment to be made under this section shall be in an amount that is equal to the aggregate of the amounts deducted or withheld under subsection 153 (1) of the Federal Act, as it applies for the purposes of this Act, in respect of the tax payable for a taxation year by individuals who,

(a) file returns under the Federal Act;

(b) are taxable thereunder in respect of that year; and

(c) are resident on the last day of that year in the non-agreeing province to which the adjusting payment is to be made. R.S.O. 1990, c. I.2, s. 53 (4); 2004, c. 16, s. 3.

Where no action by employee

(5)  Where an adjusting payment is to be made and there has been an amount deducted or withheld under subsection 153 (1) of the Federal Act, as it applies for the purposes of this Act, on account of the tax for a taxation year of an individual who is taxable under the Federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

(a) no action lies for the recovery of such amount by that individual; and

(b) the amount may not be applied in discharge of any liability of that individual under this Act. R.S.O. 1990, c. I.2, s. 53 (5); 2004, c. 16, s. 3.

Application of tax paid by employee

(6)  Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, an individual resident in Ontario on the last day of the taxation year is not required to remit any amount on account of tax payable by the individual under this Act for the taxation year to the extent of the amount deducted or withheld on account of the individual’s income tax for that year under the law of that non-agreeing province. R.S.O. 1990, c. I.2, s. 53 (6); 2004, c. 16, s. 3.

Idem

(7)  Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, the total amount deducted or withheld on account of tax payable under this Act and on account of the income tax payable under the law of the non-agreeing province by an individual resident in Ontario on the last day of the taxation year to whom subsection (6) applies exceeds the tax payable by the individual under this Act for that year, subsections 164 (1), (2) and (3) of the Federal Act, as they apply for the purposes of this Act, apply in respect of such individual as though the excess were an overpayment under this Act. R.S.O. 1990, c. I.2, s. 53 (7); 2004, c. 16, s. 3.

Adjusting payment to non-agreeing province under collection agreement

(8)  Where a collection agreement is entered into and the Government of Canada has agreed in respect of a taxation year to carry out the direction of Ontario and to make an adjusting payment on behalf of Ontario, the adjusting payment,

(a) shall be made out of any money that has been collected on account of tax under this Act for any taxation year; and

(b) shall be the amount calculated by the Minister to be the amount required to be paid under subsection (4),

and the payment thereof discharges any obligations the Government of Canada may have with respect to the payment to Ontario of any amount deducted or withheld under subsection 153 (1) of the Federal Act, as it applies for the purposes of this Act, to which subsection (5) applies. R.S.O. 1990, c. I.2, s. 53 (8); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

1993, c. 29, s. 2 - 14/12/1993

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

Reciprocal Enforcement of Judgments

Enforcement of judgments

**54** (1)  A judgment of a superior court of an agreeing province under that province’s income tax statute, including any certificate registered in such superior court in a manner similar to that provided in subsection 31 (2), may be enforced in the manner provided in the Reciprocal Enforcement of Judgments Act. R.S.O. 1990, c. I.2, s. 54 (1); 2004, c. 16, s. 3.

Idem

(2)  For the purposes of subsection (1), where a judgment of a superior court of an agreeing province is sought to be registered under the Reciprocal Enforcement of Judgments Act, such judgment shall be registered, even if it is established that one or more of the provisions of section 3 of that Act apply. R.S.O. 1990, c. I.2, s. 54 (2); 2004, c. 16, s. 3.

Idem

(3)  For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations to enable the enforcement of judgments in respect of taxes in agreeing provinces to be enforced in Ontario. R.S.O. 1990, c. I.2, s. 54 (3); 2004, c. 16, s. 3.

**Section Amendments with date in force (d/m/y)**

[2004, c. 16, s. 3](http://www.ontario.ca/fr/lois/loi/S04016" \l "s3) - 1/01/2004

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general

Reciprocal provision of information, Minister of Finance

**55** (1)  For any of the following purposes, the Minister of Finance and any person employed by the Crown who is engaged, directly or indirectly, in the development and evaluation of tax policy for the Crown may communicate information and material obtained in the course of his or her duties, or allow it to be communicated, to another person employed by the Crown or may receive information and material in the course of his or her duties from another person employed by the Crown:

1. For use in developing or evaluating tax policy for the Crown.

2. For use in developing or evaluating a program that confers a benefit.

3. For use in the administration or enforcement of an Act described in subsection (2) or another Act that imposes a tax or confers a benefit. 2007, c. 7, Sched. 17, s. 8.

Same

(2)  Subsection (1) applies despite any provision in an Act administered by the Minister of Finance or the Minister of Revenue or in an Act under which the Minister of Finance or the Minister of Revenue exercises powers or performs duties as assigned to him or her under the Executive Council Act. 2007, c. 7, Sched. 17, s. 8.

**Section Amendments with date in force (d/m/y)**

[2007, c. 7, Sched. 17, s. 8](http://www.ontario.ca/laws/statute/S07007" \l "sched17s8) - 17/05/2007

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