

Gouvernement du Québec

O.C. 965-2024, 12 June 2024

Taxation Act
(chapter I-3)

Taxation Act — Amendment

Regulation to amend the Regulation respecting the Taxation Act

WHEREAS, under subparagraph *f* of the first paragraph of section 1086 of the Taxation Act (chapter I-3), the Government may make regulations to generally prescribe the measures required for the application of the Act;

WHEREAS it is expedient to amend the Regulation respecting the Taxation Act (chapter I-3, r. 1) to give effect to the measure announced in the Budget Speech delivered on 12 March 2024 concerning the refundable tax credit granting an allowance to families and that, for the purposes of the supplement for handicapped children paid under the tax credit, aims to update various parameters for assessing an impairment and the cases in which a child is presumed to have a serious impairment-related handicap;

WHEREAS, under paragraph 2 of section 12 of the Regulations Act (chapter R-18.1), a proposed regulation may be made without having been published, if the authority making it is of the opinion that the proposed regulation is designed to establish, amend or repeal norms of a fiscal nature;

WHEREAS, under section 13 of the Act, the reason justifying the absence of such publication must be published with the regulation;

WHEREAS the Government is of the opinion that the Regulation attached to this Order in Council is designed to establish, amend or repeal norms of a fiscal nature;

WHEREAS, under the second paragraph of section 1086 of the Taxation Act, the regulations made under that particular section come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting the Taxation Act, attached to this Order in Council, be made.

JOSÉE DE BELLEFEUILLE
*Associate Secretary General and Assistant Clerk
of the Secrétariat du Conseil exécutif*

Regulation to amend the Regulation respecting the Taxation Act

Taxation Act
(chapter I-3, s. 1086, 1st par., subpar. *f*)

1. Section 1029.8.61.19R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) is amended by replacing the first paragraph by the following:

“The rules to which section 1029.8.61.19 of the Act refers for the purpose of determining if a child has an impairment or a mental function disability that substantially limits the child in performing the life habits of a child of his or her age during a foreseeable period of at least one year, that is, if the child is handicapped within the meaning of this section, are those set out in sections 1029.8.61.19R2 to 1029.8.61.19R6.”

2. (1) Section 1029.8.61.19R4 of the Regulation is amended

(1) by replacing the second paragraph by the following:

“The alteration must be confirmed by an assessment report that must contain the following elements:

(a) the diagnosis(es) made;

(b) a description of the extent and severity of the impairments based on measurements recognized in the field, or on a qualitative analysis if no recognized measurements are available;

(c) a description of the child’s abilities and disabilities, as well as their impact on the child’s functioning in his or her various living environments;

(d) a precise description of therapeutic care received over the past 12 months and those planned for the coming year.”;

(2) by adding the following paragraphs at the end:

“The diagnosis(es) to which subparagraph *a* of the second paragraph refers must have been made by a member of a professional order in accordance with

applicable standards of practice and be confirmed by significant observations in the anamnesis and physical examination, by biological tests, by medical imaging or by any other investigation performed and, as the case may be, by analysis of the results of criterion-referenced or normalized tests.

Likewise, the extent and severity of the impairments to which subparagraph *b* of the second paragraph refers must have been assessed by a member of a professional order in accordance with applicable standards of practice and be confirmed by the same means as those referred to in the third paragraph for a diagnosis.

The assessment report referred to in the second paragraph must have been prepared in its entirety by one or more members of professional orders.”.

(2) Subsection 1 applies, for a particular month that is later than the month of June 2024, in respect of an application filed with Retraite Québec after 30 June 2024 to obtain the supplement for handicapped children, and in respect of a decision rendered after 30 June 2024 following a reassessment of the child by Retraite Québec.

3. (1) Schedule A to the Regulation is amended by replacing Part 1 by the following:

“(1) IMPAIRMENTS

1.1 Sight

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child is aged 1 or over, has an ocular disease and has a visual acuity of 6/21 or less in binocular vision after appropriate optical correction;

(b) the child has a field of vision for both eyes of less than 60 degrees at the widest diameter, measured by focusing on a central point, in binocular vision after appropriate optical correction.

Assessment parameters

Visual acuity must be measured in both eyes simultaneously, after correction with appropriate refractive lenses.

The method used to measure visual acuity must be specified in the expert’s report.

The validity and reliability of the assessment, for both visual acuity and the fields of vision, must be specified in the expert’s report. The assessment must reflect the child’s visual abilities and the results must not be influenced by behavioural or cognitive difficulties.

1.2 Hearing

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child has an average air conduction threshold (500, 1,000, 2,000 and 4,000 Hz) greater than 70 dB in his or her better ear without a hearing aid or a cochlear implant;

(b) the child is less than 6 years of age and has an average air conduction threshold (500, 1,000, 2,000 and 4,000 Hz) greater than 40 dB in his or her better ear without a hearing aid.

Assessment parameters

The hearing assessment must be carried out by an audiologist and comply with the applicable standards of practice. The audiogram indicates the hearing threshold of pure sounds at 500, 1,000, 2,000 and 4,000 Hz for both ears and the results are indicated in dBeHL. The validity of the assessment must be specified in the audiologist’s report.

The assessment must reflect the child’s usual abilities. In the case of conductive hearing loss, the hearing loss resulting from it must not be temporary, as it is the case for otitis. In the case of progressive hearing loss, more than one audiogram may be required.

Exclusion

A child with an auditory processing disorder is not presumed to be handicapped due to hearing.

1.3 Musculoskeletal system

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child is less than 5 years of age, has significant motor disabilities secondary to an impairment and his or her gross or fine motor skills are less than those of the average healthy child half his or her age;

(b) the child has had complete brachial plexus palsy persisting for at least 3 months;

(c) the child is at least 2 years of age, has paresis or plegia of one or both upper limbs and, despite the application of the recommended treatments, he or she has either

—an absence of a functional grasp regarding the affected upper limb; or

—the inability to carry out bimanual activities;

(d) the child is at least 3 years of age, has significant motor disabilities secondary to an impairment and, as medically required for his or her condition, uses chronically and daily, for the majority of indoor and outdoor mobility, either

—fixed or articulated bilateral high ankle foot orthoses; or

—a wheelchair, a walker, bilateral quad canes or bilateral crutches;

(e) the child has an agensis or amputation of a limb which, despite the application of the recommended treatments, is associated chronically and persistently to one of the following characteristics:

—an absence of possible weight-bearing on the ground on the distal end of the affected lower limb when standing;

—an absence of a functional grasp regarding the affected upper limb;

—the inability to carry out bimanual activities;

(f) the child has acondroplasia.

Assessment parameters

Abnormalities in muscle tone, motor control, range of motion, coordination and balance, muscular strength and endurance must be described and commented on according to the limitations they entail when maintaining positions and carrying out locomotor, exploratory and manipulative activities.

Special rules

To assess the condition of a child born prematurely in relation to his or her growth and development, the child's age is adjusted by subtracting the number of weeks of prematurity, until the age of 36 months.

For the purposes of the analysis of a case prescribed in paragraph *d*, the expected duration of the treatments specified must be at least one year at the frequency indicated.

1.4 Respiratory function

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child has a chronic respiratory disease and, despite optimal treatment in accordance with the applicable standards of practice, he or she has complications related to his or her disease that required treatment within the last 12 months, either

—at least 3 episodes of oral or intravenous glucocorticoid administration; or

—at least 3 hospitalizations of 48 hours or more each;

(b) the child was diagnosed with cystic fibrosis or ciliary dyskinesia and either

—has a FEV1 at 60% or less of the predicted value; or

—due to chronic respiratory symptoms, he or she receives nebulizer treatments chronically and daily and requires respiratory physiotherapy treatments chronically and daily;

(c) the child has a restrictive syndrome that reduces his or her vital capacity to 50% or less of the predicted value;

(d) the child is less than 12 years of age and uses a CPAP machine daily at home;

(e) the child undergoes oxygen therapy daily at home;

(f) the child uses a BPAP machine or a high-flow nasal cannula therapy daily at home;

(g) the child has a tracheotomy or a tracheostomy;

(h) the child is on the waiting list for a lung transplant or has received one.

Assessment parameters

In the case of an asthmatic child, the fact that asthma is inadequately controlled must be demonstrated in the medical report, using measures appropriate for the child's age, including information on the frequency of daytime and nighttime symptoms, tolerance to physical activity, frequency of rescue bronchodilator needs, peak expiratory flow variability, and results of bronchial provocation tests and respiratory function tests.

When respiratory physiotherapy is prescribed, the type and frequency must be specified in the medical report.

For the purposes of the analysis of a case prescribed in paragraphs *b* and *c*, FEV1 and vital capacity measurements should be carried out when the condition is stable, without any infection or acute decompensation.

For the purposes of the analysis of a case prescribed in paragraph *h* for a child placed on the transplant waiting list, he or she must have been placed on the list after being assessed by a transplant team.

Special rules

The expected duration of the treatments specified must be at least one year at the frequency indicated.

Hospitalizations during the child's first 6 months of life are not taken into account when calculating the number of hospitalizations in the presumption that refers to symptomatic chronic respiratory diseases despite optimal treatment in accordance with the applicable standards of practice.

Daily chronic nebulizer treatments refer to daily treatment throughout the year, not only during periods of respiratory exacerbations.

1.5 Cardiovascular function

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child chronically takes antivitamin K anti-coagulants following a valve replacement surgery with mechanical prosthesis;

(b) the child is less than 3 years of age and he or she has a congenital heart disease that requires palliation by the creation of univentricular physiology;

(c) the child has either a post-correction or post-palliation status congenital heart defect, or a chronic non-congenital heart disease and, despite the application of the recommended treatment, he or she is in one of the following situations:

—he or she has a resting baseline saturation in room air below 92% chronically and persistently;

—he or she has a left ventricular ejection fraction that remains chronically and persistently below 30%;

(d) the child has symptomatic chronic pulmonary hypertension for which he or she undergoes a long-term vasodilator treatment daily;

(e) the child receives intravenous inotropes at home;

(f) the child uses a ventricular assist device at home;

(g) the child is on the waiting list for a heart transplant or has received one.

Assessment parameters

The medical report must include the level of activity that triggers cyanosis, dyspnea or tachycardia and the medically prescribed activity restrictions.

For the purposes of the analysis of a case prescribed in paragraph *c*, it must be repeatedly shown by recognized assessment measures that the ejection fraction remains below 30%.

For the purposes of the analysis of a case prescribed in paragraph *g* for a child placed on the transplant waiting list, he or she must have been placed on the list after being assessed by a transplant team.

Special rule

The expected duration of the treatments specified must be at least one year at the frequency indicated.

Exclusion

The child who has a heart defect or a heart disease without receiving active treatments, involving only medically prescribed restrictions or limitations in playing sports, is not presumed to be handicapped due to the cardiovascular function.

1.6 Nervous system abnormalities

Presumed case of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 if the child has drug-resistant epilepsy and, despite the application of optimal treatment, he or she is in one of the following situations:

(a) he or she required, in the last 12 months, at least 3 hospitalizations of 48 hours or more, each related to his or her epilepsy;

(b) he or she has generalized tonic-clonic seizures or seizures with loss of postural tone resulting in a fall, at a frequency equivalent to or greater than at least once a month for 3 consecutive months;

(c) he or she has epileptic seizures at a frequency equal to or greater than at least once a week for 3 consecutive months;

(d) classic ketogenic diet, managed by a multidisciplinary team specializing in neurology, is medically required to treat his or her epilepsy.

Assessment parameter

The assessment report must include the type, duration and frequency of the epileptic seizures, as well as the various past treatment attempts and the results obtained.

1.7 Nutrition and digestion

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child receives daily enteral nutrition at home, either gastric or jejunal;

(b) the child receives a parenteral nutrition at home;

(c) the child is less than 3 years of age and underwent surgery for a high-type anorectal congenital malformation or for Hirschsprung disease;

(d) the child has neurogenic bowel secondary to a spinal cord injury, and chronically receives medically prescribed retrograde intestinal irrigations, at least every 2 days;

(e) the child chronically receives medically prescribed antegrade intestinal irrigations through a stoma, at least every 2 days, related to fecal continence problems;

(f) the child has a colostomy or ileostomy;

(g) the child is on the waiting list for a liver or intestinal transplant or has received one;

(h) the child follows a prescribed gluten-free diet related to diagnosed celiac disease.

Assessment parameters

In the case of an anorectal malformation, the specific type of malformation must be indicated in the assessment report.

For the purposes of the analysis of a case prescribed in paragraph *g* for a child placed on the transplant waiting list, he or she must have been placed on the list after being assessed by a transplant team.

Special rule

The expected duration of the treatments specified must be at least one year at the frequency indicated.

1.8 Renal and urinary functions

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child is aged 5 or over and, despite the application of the recommended treatments, his or her daytime urinary incontinence occurs daily, requiring care and the use of incontinence products;

(b) the child uses a urinary catheter daily;

(c) the child has a vesicostomy or ureterostomy;

(d) the child has a chronic kidney disease and, despite the application of the recommended treatment, he or she has chronic kidney disease (stage 4 or over), with a glomerular filtration rate less than 30 ml/min/1.73 m²;

(e) the child undergoes dialysis on a regular basis;

(f) the child is on the waiting list for a kidney transplant or has received one.

Assessment parameters

In the case of a child diagnosed with chronic kidney disease, the glomerular filtration rate and the stage of the chronic kidney disease must be specified in the assessment report.

For the purposes of the analysis of a case prescribed in paragraph *f* for a child placed on the transplant waiting list, he or she must have been placed on the list after being assessed by a transplant team.

Special rule

The expected duration of the treatments specified must be at least one year at the frequency indicated.

1.9 Metabolic, hematological or hereditary abnormalities

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child has been diagnosed with cystic fibrosis and, in the last 12 months, he or she required a daily pancreatic enzyme supplements treatment and therapeutic interventions related to documented pulmonary complications;

(b) the child has been diagnosed with inborn errors of metabolism resulting in a deficit of an essential metabolite, an accumulation of toxic metabolites, insufficient energy production or a deficiency in the synthesis or catabolism of complex molecules, and

—despite the application of the recommended treatment, the child is at a high risk of developing, in connection with that diagnosis, severe metabolic decompensation, within the next year as a result of physical or metabolic stress, requiring emergency medical intervention, and the risk will persist over the next few years;

—the diagnosis requires a diet of proteins, lipids or carbohydrates of a particular type or in closely monitored proportions, which prevents him or her from eating like those around him or her, and failure to adhere to the diet could have serious consequences for his or her health or development; or

—the diagnosis is associated with severe multisystem involvement that will persist despite the application of the recommended treatment, and that has been present from the first year of the child's life or before the diagnosis was made;

(c) the child is less than 7 years of age and has sickle cell disease related to HbSS, HbSC or HbSβ-thalassemia hemoglobinopathies;

(d) the child has hemophilia with Factor VIII or IX activity of less than 1% and requires an intravenous administration of clotting factors chronically at least once a week;

(e) the child requires daily continuous insulin therapy or multiple daily insulin injections, as well as necessary diabetes-related care.

Assessment parameters

In the case of a child presenting an hemoglobinopathy, the abnormal hemoglobin forms must be specified in the medical report.

In the case of a child presenting a coagulation factor deficiency, the level of the deficient factor must be specified in the medical report.

Special rules

The expected duration of the treatments specified must be at least one year at the frequency indicated.

For the purposes of the analysis of a case prescribed in paragraph *a*, an uncomplicated upper respiratory tract infection does not represent a pulmonary complication, and preventive respiratory physiotherapy following a diagnosis of cystic fibrosis is not considered a therapeutic intervention related to documented pulmonary complications.

For the purposes of the analysis of a case prescribed in paragraph *e*, a once-daily injection of long-acting or ultra-long-acting insulin is not considered to be continuous insulin therapy.

Exclusion

A child with a metabolic abnormality that is corrected by medication, a vitamin, a dietary supplement or the simple exclusion of a food is not presumed to be handicapped due to the metabolic abnormality.

1.10 Immune system abnormalities and neoplasia

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child has food allergies and

—follows a strict avoidance diet for at least 3 of the following allergen groups and one of which is cow's milk:

—cow's milk;

—eggs;

—peanuts and nuts;

—wheat, barley, oats and rye;

—other selected cereals: corn, rice and buckwheat;

—soya;

—other selected legumes: green peas, yellow peas, lentils and chickpeas,

—mustard;

—sesame;

—beef;

—chicken;

—follows a strict avoidance diet for at least 3 of the allergen groups listed above and the risk of systemic reaction at a very low dose requiring the administration of epinephrine is present and demonstrated for a least 1 of the allergens; or

—follows a strict avoidance diet for at least 4 of the allergen groups listed above;

(b) the child has significant prolonged immunosuppression related to a condition or treatment and, despite the application of the recommended treatment, has required at least 3 hospitalizations of 48 hours or more each in the last 12 months related to his or her immunosuppression or his or her underlying disease;

(c) the child has solid or hematological cancer requiring radiotherapy or oral or parenteral chemotherapy treatments;

(d) the child is on the waiting list for a stem cell transplant or has received one in the last 12 months.

Assessment parameters

In the case of a child presenting neoplasia, the assessment report must specify the type of neoplasia, the stage of the disease, the treatment plan and the response to treatment.

For the purposes of the analysis of a case prescribed in paragraph *a*, the medical report must include the clinical history with a detailed description of the signs and symptoms of previous allergic reactions, the interpretation of allergy test results for the allergens that are still causing problems, the progress of desensitization when such treatment is underway, and the level of avoidance required in the diet for the allergens that are still causing problems.

For the purposes of the analysis of a case prescribed in paragraph *d* for a child placed on the transplant waiting list, he or she must have been placed on the list after being assessed by a transplant team.

Special rules

The expected duration of the treatments specified, including avoidance diets, must be at least one year at the frequency indicated.

For the purposes of the analysis of a case prescribed in paragraph *a*, the following special rules apply:

—the strict avoidance diet must be prescribed by a physician following an assessment confirming a medical condition for which the severity of the reactions requires such a diet on a long-term basis;

—an avoidance diet is considered to be strict only when the child must avoid all traces of the allergen;

—a child is not considered to require a strict avoidance diet regarding eggs if he or she can tolerate cooked eggs as part of the ingredients in a mixture;

—food intolerance is not considered a condition requiring a strict avoidance diet for the food in question;

—a child undergoing desensitization who is under maintenance dose for an allergen is no longer considered to require a strict avoidance diet for that allergen;

—the very low dose mentioned refers to the lowest average trigger dose that causes a reaction in 5% of the population allergic to that allergen, or the ED05 value, as specified following a literature review by an international panel of experts.

For the purposes of the analysis of a case prescribed in paragraph *b*, hospitalizations during the child's first 6 months of life are not taken into account when calculating the number of hospitalizations.

1.11 Congenital malformations and chromosomal and genetic abnormalities

Presumed case of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 if the child has a non-mosaic autosomal chromosome trisomy.

Assessment parameters

The result of the cytogenetic analysis, such as the karyotype, QF-PCR, FISH or microarray CGH, is required.

In the case of a child presenting a syndrome in which the types of malformations or the severity of impairments are not uniform in all affected children, it is essential to provide a detailed description of the manifest impairments, the child's abilities and disabilities, and their consequences on his or her functioning.

1.12 Other impairments or multiple impairments

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(a) the child is less than 2 years of corrected age and he or she was born prematurely at 25 weeks and 6 days of gestation or less;

(b) the child receives skin care at home for a severe and generalized condition at high risk of pressure wounds, webbing and contractures;

(c) the child is undergoing chronic corticosteroid therapy, administered at least every 2 days, either orally or intravenously, in doses equal to or higher than physiologic replacement therapy doses for adrenal insufficiency.

Assessment parameter

For the purposes of the analysis of a case prescribed in paragraph *a*, the specific gestational age at birth must be indicated in the assessment report.

Special rule

The expected duration of the treatments specified must be at least one year at the frequency indicated.”.

(2) Subsection 1 applies, for a particular month that is later than the month of June 2024, in respect of an application filed with Retraite Québec after 30 June 2024 to obtain the supplement for handicapped children, and in respect of a decision rendered after 30 June 2024 following a reassessment of the child by Retraite Québec.

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

106915

Gouvernement du Québec

O.C. 966-2024, 12 June 2024

Determination of the costs that must be incurred by the Autorité des marchés financiers for the administration of the Insurers Act and be borne by the authorized insurers, and the contribution for those costs that must be collected from each insurer for 2023-2024

WHEREAS, under the first paragraph of section 481 of the Insurers Act (chapter A-32.1), the costs that must be incurred by the Autorité des marchés financiers for the administration of the Act are to be borne by the authorized insurers, and they are determined annually by the Government based on the forecasts provided to it by the Authority;

WHEREAS, under the second paragraph of section 481 of the Act, such costs, for each insurer, correspond to the sum of the minimum contribution set by the Government and the proportion of those costs corresponding to the proportion that the insurer's total direct premium income for the preceding year in Québec is of the aggregate of the similar income of all the insurers for the same period;

WHEREAS, under the third paragraph of section 481 of the Act, the difference noted between the forecast of the costs that must be incurred for the administration of the Act for a year and those actually incurred for the same year must be carried over to similar costs determined by the Government for the year after the difference is noted;

WHEREAS the costs forecasted by the Autorité des marchés financiers for the administration of the Insurers Act for 2023-2024 are \$24,817,245;

WHEREAS the costs actually incurred by the Autorité des marchés financiers for the administration of the Insurers Act for 2022-2023 were \$1,396,037 lower than the forecasted costs;

WHEREAS it is expedient to determine the costs that must be incurred by the Autorité des marchés financiers for the administration of the Insurers Act for 2023-2024 at \$23,421,208 to be apportioned between the insurers authorized during 2022-2023;

WHEREAS it is expedient to set the minimum contribution for those costs that must be collected from each insurer authorized during 2022-2023 at \$575;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the costs that must be incurred by the Autorité des marchés financiers for the administration of the Insurers Act (chapter A-32.1) for 2023-2024 be determined at \$23,421,208 to be apportioned between the insurers authorized during 2022-2023;

THAT the minimum contribution for those costs that must be collected from each insurer authorized during 2022-2023 be set at \$575.

JOSÉE DE BELLEFEUILLE
*Associate Secretary General and Assistant Clerk
of the Secrétariat du Conseil exécutif*

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