

REVENU

QUÉBEC



THE TAX EFFECTS OF SEPARATION AND DIVORCE

revenuquebec.ca



CONTENTS

1	Introduction	5
2	Definitions	6
3	Support payments	8
3.1	Support payments	8
3.2	Other amounts considered to be support payments	8
3.3	Tax treatment of child support	11
3.3.1	Order made or written agreement entered into after April 30, 1997	11
3.3.2	Order made or written agreement entered into before May 1, 1997	11
3.3.3	Order of support payments	13
3.4	Payments made to a child	15
3.5	Filing the income tax return	15
3.5.1	Recipient of support	15
3.5.2	Payer of support	16
4	The support-payment collection program	18
4.1	Exemption	18
4.2	Collection of support	19
4.2.1	Source deductions	19
4.2.2	Payment order	19
4.3	Payment of support	20
4.4	End of support collection	20
5	Legal or extra-judicial fees	21
6	Resumed cohabitation	21
7	Tax credits	22
7.1	Amount for a person living alone	22
7.2	Amount for dependants and amount transferred by a child 18 or over enrolled in post-secondary studies	23
7.3	Tax credit for childcare expenses	23
8	Property transfers and RRSP contributions	24
8.1	Property transfers	24
8.2	RRSP contributions	24
8.3	Withdrawal of funds from an RRSP further to the partition of family patrimony	24
8.4	Transfer of funds in an RRSP, RRIF or a PRPP/VRSP	25
8.5	Transfer of funds in an RPP or a DPSP	25



SPECIAL TAX MEASURES APPLY AFTER A SEPARATION OR DIVORCE.

If you are separated or divorced, read this guide. It contains information about these special measures and will help you claim all the deductions and tax credits to which you are entitled.

The information in this guide does not constitute a legal interpretation of the provisions of the *Taxation Act* or any other legislation. For more information, contact us. Our contact information is given on the back of this guide.

1 INTRODUCTION

A separation or divorce is always difficult. Apart from the emotional upheaval experienced by the family, numerous legal and administrative details must be taken care of.

The changes that result from a separation or divorce may also have tax consequences for the parties involved. To help you deal with those consequences, this guide includes:

- information about the tax treatment of support and instructions for completing the lines of the income tax return that relate to support payments (lines 142, 225, 250 and 276);
- information about the support-payment collection program that we administer;
- information about various subjects related to a separation or divorce, such as legal or extrajudicial fees, resumed cohabitation, tax credits and registered retirement savings plans (RRSPs).

In addition, note that a model for the determination of child support payments, which provides precise and objective standards for determining the amount of child support payments and standardizing calculation methods, came into effect in Québec on May 1, 1997. Under it, the amount of child support is based on the number of children, the income earned by both parents, certain additional expenses relating to the children's needs, if applicable, and the nature of the custody arrangement.

For more information, consult the brochure entitled *The Québec Model for the Determination of Child Support Payments*, which is published by the Ministère de la Justice and is available at justice.gouv.qc.ca.

The printed version of the brochure is also available from Services Québec offices and court houses.

For more information, contact us. Our contact information is given on the back of this guide.



2 DEFINITIONS

Allowance

A specific amount that the payer must remit to the recipient and that is determined in advance by a court order or by a written agreement between the two parties.

NOTE

In order for payments to be considered an allowance, the recipient must not be required to account for the use of the amounts he or she receives.

An allowance may also be

- a predetermined amount that is indexed on the basis of fluctuations in the consumer price index or a similar formula (note that support payments awarded under an order made on or after January 1, 1988, are automatically indexed);
- an amount that is not determined in advance in an order or agreement, but is determined on the basis thereof.

Arrears

An amount, payable as support under an order or a written agreement, that was not paid on time but that meets the basic criteria to qualify as a support payment.

Former spouse

The person who was your spouse before the breakdown of your relationship.

Non-taxation

Exemption of child support payments from taxation under certain conditions. Further to changes that came into effect on May 1, 1997, payers cannot deduct their child support payments from their income, and recipients cannot include them in their income (see section 3.3).

Periodic allowance

An allowance that must be paid at regular intervals that are determined in advance in an order or a written agreement.

The interval between payments may be as long as a year. The payments do not necessarily have to be made throughout the recipient's lifetime. For example, where an order or a written agreement provides that periodic payments are payable over an indefinite period or until some event occurs that significantly changes the recipient's needs (such as remarriage or emancipation), the payments constitute a periodic allowance. If a final payment date is set under the order or agreement, it can be changed only by a new order or written agreement.

Furthermore, where an order or a written agreement stipulates that an allowance is to be paid for only part of the year, the allowance is considered to be a periodic allowance only if the circumstances show that the amount is paid **during this period** for the benefit of the recipient, for the benefit of a child of the recipient, or for the benefit of both the recipient and a child of the recipient.

Payer

A person who makes support payments to his or her spouse or former spouse, or to the mother or father of his or her child. Also referred to as the "debtor of support."

Recipient

A person who receives support payments from his or her spouse or former spouse, or from the mother or father of his or her child. Also referred to as the "creditor of support."



Self-contained domestic establishment

A dwelling, an apartment or a similar place in which a person ordinarily eats and sleeps.

Spouse

The person to whom you are legally married **or** with whom you have contracted a civil union, or the person who is your de facto spouse.

NOTE

A **de facto spouse** is an individual of the opposite sex or the same sex who:

- was living in a conjugal relationship with you and who was the biological or adoptive parent (legally or otherwise) of at least one of your children; or
- had been living in a conjugal relationship with you for at least 12 consecutive months before that time (the 12-month period is considered to have been uninterrupted if you lived apart because of the breakdown of your relationship for a period of fewer than 90 days).

Spouse on December 31

The person

- who was your spouse at the end of that day and from whom you were not living separate and apart at that time because of the breakdown of your relationship (if, on December 31, you and your spouse were separated because of the breakdown of your relationship and your separation lasted fewer than 90 days, you are considered to have had a spouse on December 31); or
- who was your spouse at the time of his or her death during the year, provided you and your spouse had not been living separate and apart for 90 days or more at that time because of the breakdown of your relationship and you did not have a new spouse on December 31 of the year.

Written agreement

A document signed by the payer and the recipient (or by their duly authorized legal representatives) that sets out the terms of an accord concerning the periodic payment of support, where an individual has agreed to pay support for the benefit of his or her spouse or former spouse, for the benefit of children born of the relationship, or for the benefit of his or her spouse or former spouse and the children born of the relationship.

IMPORTANT

When the terms “spouse,” “relationship” and “breakdown” are used in this guide, they apply (unless otherwise indicated) to individuals who are legally married, to individuals who have contracted a civil union and to de facto spouses.



3 SUPPORT PAYMENTS

3.1 Support payments

Support payments are amounts payable or receivable as a periodic allowance under an order or a written agreement for the benefit of the recipient, a child of the recipient, or both. The recipient must also be able to use the amounts received at his or her discretion; in other words, the amount paid or received, as the case may be, must be entirely at the disposal of the recipient, without the recipient having to account for how it is used.

There are two types of support: spousal support and child support.

Spousal support

Any support payment that, in accordance with the order or written agreement under which it is payable or receivable, is intended solely for the benefit of a recipient who is the payer's spouse or former spouse and from whom the payer is living separate and apart further to the breakdown of their relationship.

Child support

Any support payment that, in accordance with the order or written agreement under which it is payable or receivable, is not intended solely for the benefit of a recipient who is the payer's spouse or former spouse, or the mother or father of the payer's child.

3.2 Other amounts considered to be support payments

Under certain conditions, payments that do not normally constitute support payments (for example, payments made or received before the date of the order or written agreement, payments for specific expenses and lump-sum payments) can be considered support payments.

Payments made or received before the date of the order or written agreement

In order for an amount to qualify as a support payment, it must be paid or received, as applicable, further to an order or a written agreement. For this reason, payments made or received before the date of the order or written agreement cannot, as a rule, be deducted from the payer's income or included in the recipient's income. Such payments are, however, considered to be support payments if:

- the order or written agreement stipulates that the payments are considered to be made under the order or written agreement;
- the payments were made either in the year of the order or written agreement or in the previous year; and
- the payments meet the basic criteria set forth in section 3.1.

Such payments are considered to be made on the date of the order or written agreement.

If the order was made or the written agreement was entered into in 2000, payments made prior to January 1, 1999, are not covered by this measure. As a result, they cannot be deducted from the payer's income or included in the recipient's. Payments for 1999 or 2000, however, can be deducted from the payer's income and must be included in the recipient's income for the year they were paid or received, as applicable, if they meet the above-mentioned conditions and are not subject to non-taxation. If the payments were deducted from or included in income for the previous year, the payer or recipient, respectively, must ask for an adjustment to the income tax return for that year by filing form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*, separately from the income tax return).



Where the order is made or the written agreement is entered into after April 30, 1997, and it changes the amount of child support (that is, the amount differs from the amount payable before May 1, 1997), the revised amount of child support is deemed to have been paid, under the order or written agreement, on the day it is to be paid for the first time. As of that date (that is, as of the date on which the amount of child support was revised), the support payments are not taxable for the recipient or deductible for the payer. See the following example.

Example

Robert and Julie are legally married. They separated on February 1, 1996. Since that date, Robert has been making child support payments of \$500 per month. On October 1, 2019, the couple entered into a written agreement stipulating that amounts paid from January 1, 2018, to October 1, 2019, are deemed to have been paid and received under the agreement. Moreover, the agreement stipulates that as of October 1, 2019, the amount of the child support payments is increased to \$750 per month.

The amounts received as support payments from January 1, 2018, to December 31, 2018 (that is, $\$500 \times 12$ months = \$6,000) must be included in Julie's income for 2018 and may be deducted from Robert's income for 2018. However, the amount of child support payable to Julie as of October 1, 2019, differs from the amount she was receiving before May 1, 1997. The tax rules concerning child support therefore apply as of the day on which the first payment of the revised amount is to be paid, that is, October 1, 2019.

For 2019, the amount that Julie must include in her income, and that Robert may deduct, is \$4,500 ($\500×9 months). As of October 1, 2019, the child support paid is not taxable for Julie and is not deductible for Robert.

Payments for specific expenses

In order for support payments to be taxable (that is, not subject to the tax rules under which child support payments do not have to be included in the recipient's income and cannot be deducted from the payer's income), the recipient must have full discretion as to their use.

However, payments made for specific expenses to the recipient or to a third party (regardless of whether or not they are paid on a periodic basis) are considered to be receivable by the recipient and payable by the payer as a periodic allowance that can be used by the recipient at his or her discretion, provided all of the following conditions are met:

- The order or written agreement stipulates that the payments must be included in the recipient's income under subsection 56.1(2) of the *Income Tax Act* and can be deducted from the payer's income subsection 60.1(2) of the Act.
- The payments became payable in the year, with respect to expenses incurred in the year or in the previous year, under an order or a written agreement.
- The expenses were incurred for the maintenance of the recipient, the maintenance of a child in the recipient's custody, or the maintenance of both the recipient and the child.

It is not necessary for the exact amount of the payments to be stipulated in the order or written agreement. Payments are considered fixed and predetermined if the document in question provides sufficient indications for the amount to be determined. For example, a written agreement that refers to a mortgage on a particular building, or to tuition fees charged by the educational institution attended by a child of the recipient, contains sufficient indications for the payment made in this respect to be considered a periodic allowance.

It should be noted that payments made to cover specific expenses are amounts paid directly to the recipient, or amounts paid on the recipient's behalf to a third party for specific expenses.



Specific expenses include expenses incurred for:

- services (childcare, courses, etc.);
- rent, property taxes, electrical bills, insurance premiums, telephone bills, etc.;
- the rental of corporeal property.

Specific expenses **do not**, however, include:

- expenses related to the self-contained domestic establishment occupied by the payer of support;
- expenses incurred to acquire corporeal property, other than the following types of expenses, which are considered specific expenses:-
 - medical expenses (prescription drugs, eyeglasses, an orthopedic device, a wheelchair, orthodontic expenses, etc.);
 - educational expenses (books, school supplies, etc.);
 - amounts paid to maintain a self-contained domestic establishment occupied by the recipient of support;
 - amounts paid to acquire or improve a self-contained domestic establishment occupied by the recipient of support, up to 20% of the initial principal of all loans made in order to acquire or improve the dwelling.

If your support payments are subject to the tax rules concerning the non-taxation of child support, payments made to a third party are taxable if, in addition to meeting the basic criteria for support payments, the following conditions are met:

- All of the non-taxable and non-deductible child support has been paid for the current and previous years.
- The order or written agreement clearly stipulates that payments made to a third party are made solely for the maintenance of the payer's spouse or former spouse, or the father or mother of the payer's child.

Lump-sum payments

Where an order or a written agreement provides that an amount is to be paid in regular instalments over a fixed period of time, it is important to determine whether the amount constitutes a periodic allowance or a lump-sum paid in instalments.

In order to qualify as support, an amount must be payable or receivable, as the case may be, as a periodic allowance for the maintenance of the recipient, of a child of the recipient, or both. As a rule, lump-sum payments are neither taxable for the recipient nor deductible for the payer.

It can be difficult, however, to determine whether an amount paid in regular instalments over a fixed period of time constitutes a lump-sum paid in instalments or a periodic allowance for the maintenance of the recipient, of a child of the recipient, or both the recipient and a child of the recipient. Some of the criteria used to determine the nature of such payments are their frequency, their amount, the length of time during which they are made and whether or not advance payments can be made. For example, the following are generally considered lump-sum payments:

- payments that are made more than one year apart;
- payments that exceed an amount that is sufficient for the maintenance of the recipient, a child of the recipient, or both the recipient and the child;
- payments that are payable over a fixed period of time;
- payments that the payer can decide to pay in advance;
- payments that fully or partially release the payer from any future obligations to pay support;
- payments that include interest.



3.3 Tax treatment of child support

Under tax measures that came into effect on May 1, 1997, child support payments made further to an order made or a written agreement entered into after April 30, 1997, are not deductible from the payer's income and do not have to be included in the recipient's income.

The new measures apply only to child support payments. Where a recipient receives support payments **solely** for his or her maintenance as a spouse or former spouse and not for the maintenance of any children, the total amount of support must be included in the recipient's income and can be deducted from the payer's income. However, if the support is intended for the maintenance of children or for the maintenance of the spouse or former spouse and children, read the information below.

Since May 1, 1997, judges have been required to clearly specify in their orders which portion of the support payment is for the benefit of a child and which portion is for the benefit of the spouse or former spouse. The same rule applies to written agreements.

If the order or written agreement does not specify the amount awarded solely for the benefit of the spouse, the total amount is deemed to be child support. Amounts paid to a third party for specific expenses are also deemed to be child support. For example, where the order or written agreement provides for the payment of certain expenses directly to a third party and it is not clearly indicated which expenses are made for the benefit of the spouse, all of the amounts are considered to be child support. Therefore, unless the amounts intended for child support and for spousal support are clearly specified, all of the support received is considered child support, and is not taxable.

3.3.1 Order made or written agreement entered into after April 30, 1997

Child support received after April 30, 1997, further to an order made or a written agreement entered into after that date, does not have to be included in the recipient's income.

Likewise, child support paid after April 30, 1997, further to an order made or a written agreement entered into after that date, cannot be deducted from the payer's income.

3.3.2 Order made or written agreement entered into before May 1, 1997

Except in the situations described below, child support received or paid further to an order made or a written agreement entered into before May 1, 1997, must be included in the recipient's income and can be deducted from the payer's.

- (a) The order or written agreement stipulates that child support payments received after April 30, 1997, do not have to be included in the recipient's income and are not deductible from the payer's income.

The date as of which the child support payments are neither taxable for the recipient nor deductible for the payer is the date specified in the order or written agreement, provided the date is after April 30, 1997.

Example

Under an order made before May 1, 1997, Jim must pay child support of \$700 on the first day of each month to his former spouse Lucy. A new order made on July 7, 2019, reduces the amount of child support to \$500 per month. The date on which the child support payments (\$500) become non-taxable for Lucy and non-deductible for Jim is July 7, 2019.



- (b) The order or written agreement was varied after April 30, 1997, in order to increase or decrease the amount of child support payable. As a rule, such a variation is made where there is an application for revision of support, or where an addendum is to be integrated into a written agreement. If the application is granted or the addendum is accepted, the recipient will have to continue including the revised amount in his or her income, and the payer will continue to be able to deduct it from his or hers.

The date as of which child support payments are neither taxable for the recipient nor deductible for the payer is the date on which the first payment of the revised amount of child support is required to be made.

Example

Under a written agreement entered into before May 1, 1997, Rosemary must make support payments of \$1,000 per month for the benefit of her former spouse and their children. This agreement is confirmed by an order made after April 30, 1997. The order does not revise the amount of support payments, but it specifies that of the total amount payable per month, \$200 is for the benefit of Rosemary's former spouse and \$800 is for the benefit of the children. The order therefore reduces the child support from \$1,000 to \$800 per month, and also renders the payer and the recipient subject to the rules under which child support is neither taxable nor deductible.

IMPORTANT

Regardless of the automatic variation of the child support provided for in the order or written agreement (for example, under an indexation clause or an adjustment related to the payer's income), the child support continues to be taxable for the recipient and deductible for the payer.

- (c) A new order or written agreement (dated after April 30, 1997) increases or decreases the total amount payable as child support. This generally occurs in the following situations:
- A written agreement entered into before May 1, 1997, is confirmed by an order made after April 30, 1997.
 - A written agreement entered into before May 1, 1997, is replaced by a written agreement entered into after April 30, 1997.
 - An interim relief order made before May 1, 1997, is replaced by a divorce judgment granted or judgment of separation from bed and board rendered after April 30, 1997.
 - A judgment of separation from bed and board rendered before May 1, 1997, is replaced by a divorce judgment granted after April 30, 1997.
 - A judgment of separation from bed and board or a divorce judgment granted before May 1, 1997, or an application for revision of support granted before May 1, 1997, is appealed and the appeal court decision is rendered after April 30, 1997.

In all these cases, the rules under which child support is not taxable for the recipient or deductible for the payer apply only if the total amount of child support payable under an order made or a written agreement entered into after April 30, 1997, is different from the total amount of child support that was payable under the order made or written agreement entered into before May 1, 1997. If the total amount of child support does not change, the recipient must continue to include the child support payments in his or her income and the payer can continue to deduct them in his or hers.

The date as of which the child support payments are neither taxable for the recipient nor deductible for the payer is the date of the order made or the written agreement entered into after April 30, 1997, that changes the total amount of child support.

Example

Under an order made on January 15, 1997, Bob must make support payments of \$900 per month (\$700 in child support and \$200 in spousal support). On May 15, 2020, a new order revises the proportions of support but not the overall amount. Under the new order, Bob must pay \$600 per month in child support and \$300 in spousal support. As of May 15, 2020, the child support is not deductible for Bob or taxable for his former spouse.



- (d) The recipient and the payer jointly elect to have the child support not be taxable or deductible as of a date after April 30, 1997. If the election is made after December 19, 2006, they must complete and send us Canada Revenue Agency form T1157, *Election for Child Support Payments*.

The date as of which child support payments are neither taxable for the recipient nor deductible for the payer is the date specified by the recipient and the payer, provided the date is after April 30, 1997. The election may be made without it being necessary to vary the order made or the written agreement entered into before May 1, 1997. (This means that the amounts payable as support are not changed.) Once the election is made, the parties involved cannot revert to the former tax measures.

Example

Under a written agreement entered into on January 1, 1997, Steve must make support payments of \$1,100 (\$900 in child support and \$200 in spousal support) on the first day of each month.

Marie and Steve do not want to make changes to their written agreement, but they would like the new tax rules to apply to child support payable on or after September 1, 2018. They therefore file form T1157, *Election for Child Support Payments*.

Beginning on September 1, 2018, Marie no longer includes in her income the \$900 per month she receives in child support, but she must continue to include the \$200 per month she receives in spousal support (that is, the amount she receives solely for her own benefit). Steve can no longer deduct from his income the \$900 he pays in child support but can continue to deduct the \$200 per month he pays in support to his former spouse. If Steve makes all of his support payments for 2018, Marie must enter \$9,600 on line 142 of her 2018 return. This amount includes \$7,200 in child support ($\900×8 months for child support paid from January 1 to August 1, 2018) and \$2,400 in spousal support ($\$200 \times 12$ months). For taxation years after 2018, Marie enters \$2,400 on line 142.

3.3.3 Order of support payments

Child support payments subject to the rules concerning non-taxation are considered to have been received before any child support payable for previous periods and before any spousal support.

This means that, when child support and spousal support are both payable at the end of a calendar year, all the payments made during the year are considered to have been paid first as child support. Consequently, the recipient is not required to include an amount in his or her income if the amount received is less than the total of the following amounts:

- the non-taxable support owed for the current year;
- the non-taxable support owed for previous years.

If the non-taxable support concerns the current year and previous years, the payer must pay the amount of support in full before he or she can deduct the spousal support from his or her income.

If the recipient is subject to the non-taxation measures, he or she must complete Work Chart 142 in order to determine the amount of support to enter on line 142 of his or her income tax return. Likewise, a payer subject to the measures must complete Work Chart 225 to calculate the deductible amount and enter that amount on line 225 of the return.

If the child support is not paid in full before the end of the taxation year, the arrears respecting this child support or respecting spousal support are added to the support payable for the following year. Once the child support payable for the current year and previous years has been paid in full, any excess amount is considered to be spousal support and is taxable for the recipient and deductible for the payer.



Example

Ron is required to make support payments of \$9,000 for 2019. This amount comprises spousal support of \$3,000 (\$250 per month) and child support of \$6,000 (\$500 per month). At the end of the year, however, his payments total only \$7,000. This means, under the above-mentioned rules, that he has paid his child support (\$6,000) in full and is considered to have paid \$1,000 in spousal support. Ron’s former spouse must therefore include \$1,000 in her income for 2019, and Ron may deduct this amount from his income for 2019. The amount not received (\$2,000) constitutes arrears to be added to the support payable the following year.

Use the table below to calculate the taxable or deductible amount for the current year and to determine the support-payment arrears at the end of the year.

Period	A Amount received or paid (\$)	B Child support that is non-taxable and non-deductible (\$)	C Spousal support and any other amount payable under the former tax rules (\$)
Previous year (arrears)			
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
Total			
Amount taxable or deductible for the current year Subtract the total of the amounts in column B from the total of the amounts in column A. If the result is negative, enter 0. The amount of support taxable or deductible must not exceed the total in column C.			
Child-support arrears at the end of the year Subtract the total of the amounts in column A from the total of the amounts in column B. If the result is negative, enter 0.			
Spousal-support arrears at the end of the year Subtract the amount taxable or deductible for the current year from the total of the amounts in column C.			



3.4 Payments made to a child

If an order or a written agreement stipulates that an amount is to be paid to a child, the amount cannot be deducted from the payer's income and does not have to be included in the recipient's income or in the child's income. Such a payment is not an allowance within the meaning of the *Taxation Act*, since the recipient is not free to use it at his or her discretion.

If an order or written agreement stipulates that support is to be paid to the recipient for the benefit of a child and that the support is taxable, the payer may continue to deduct the support payments from his or her income. Moreover, the recipient must continue to include them in his or her income, even if the child has reached full age since the date of the order or written agreement, and even if, in actual fact, the payments are made directly to the child. The terms of the order or written agreement may be varied only by a new order or written agreement.

3.5 Filing the income tax return

3.5.1 Recipient of support

You must enter, on line 142 of your income tax return, the support payments you received from a person from whom you were living separate and apart at the time. However, if you are subject to the non-taxation measures, you must complete Work Chart 142 to determine the amount to enter on line 142.

Arrears

A single payment made to cover arrears is considered a periodic allowance, unless it is made to cover amounts due for a period prior to the date of the order or written agreement.

If you are not subject to measures concerning the non-taxation of child support, you must include the support-payment arrears in your income for the year in which you received them.

If you are subject to the measures, you must consider any support-payment arrears to have been paid first to cover any non-taxable support payments and then to cover taxable support payments. This means that you do not have to include any amount for support payments in your income until all of the non-taxable support payments due for the period have been made.

When reporting the arrears you received for a given year, you must comply with the following rules:

- The arrears are first applied to the payment of non-taxable support (from the earliest debt to the most recent debt).
- The balance of the arrears is then applied to the payment of taxable support (from the earliest debt to the most recent debt).

Complete Work Chart 142 of the income tax return to determine the taxable amount to be entered on line 142 of your income tax return.

If you have to include support-payment arrears on line 142 of your return and a portion of those arrears applies to previous years, we can, at your request, determine whether it is to your advantage to calculate the income tax payable on that portion of the payment as if you had received it in the previous years and deduct it from your taxable income. If it is, we will enter a tax adjustment on line 443. To have us do the calculation, check box 404 on the return, and complete form TP-766.2-V, *Averaging of a Retroactive Payment, Support-Payment Arrears or a Repayment of Support*, and enclose it with your return.

To determine the amount of arrears that may give rise to a tax adjustment, subtract the taxable support that you received for the current taxation year from the amount entered on line 5 of Work Chart 142.

Complete the table in section 3.3.3 to calculate the support-payment arrears owing at the end of the year.



Repayment of support

If, further to a court order, you repaid, during the year or one of the two previous years, an amount of support included in your income for the year or a previous year, you may deduct all or part of the amount on line 250 of your income tax return, provided you did not deduct the amount in a previous return and provided an adjustment was not previously made with respect to the amount. However, this measure does not apply to a repayment of support payments that were not included in your income (for example, non-taxable child support) or to a repayment provided for under a written agreement that has not yet been confirmed by an order.

If the portion of the repayment attributable to previous years is \$300 or more, enter that portion on line 276 of your income tax return as well. Check box 404 of your return and enclose form TP-766.2-V with your return. We will calculate a tax adjustment for you that may reduce your income tax payable for the year.

Support payments received from a non-resident

If you received support payments from a resident of another country, and they meet the basic criteria to qualify as support payments and are taxable, you must include them in your income. You may claim a deduction respecting such amounts on line 297 of your income tax return if the country concerned has concluded a tax treaty or agreement with Canada or Québec under which support payments are not subject to federal or Québec income tax. However, if the amounts received are non-taxable child support, you do not have to include the payments in your income and cannot claim a deduction on line 297 of your income tax return.

Moreover, if you paid income tax to a foreign country or a political subdivision of a foreign country with respect to support payments that must be included in your income, you may be able to claim a foreign tax credit (see line 409 of Schedule E of the income tax return).

For more information, refer to document IN-904-V, *Support Payments: When the Debtor or Creditor Resides Outside Québec*, and to the guide to the income tax return (TP-1.G-V).

3.5.2 Payer of support

You can deduct, on line 225 of your income tax return, the support payments you made to a person from whom you were living separate and apart at the time. However, if you are subject to the non-taxation measures, you must complete Work Chart 225 to determine the amount to enter on line 142.

If you paid support to more than one recipient, write each one's name and social insurance number on a separate sheet and enclose it with your income tax return.



Arrears

A single payment made to cover arrears is considered a periodic allowance, unless it is made to cover amounts due for a period prior to the date of the order or written agreement.

If you are not subject to measures concerning the non-taxation of child support, you can deduct the support-payment arrears from your income for the year in which you paid them.

If you are subject to the measures, you must consider any support-payment arrears to be paid first to cover any non-taxable support payments and then to cover taxable support payments. This means that you may not deduct any amount for support payments from your income until all of the non-taxable support payments due for the period have been made.

When reporting arrears you paid for a given year, you must comply with the following rules:

- The arrears are first applied to the payment of non-taxable support (from the earliest debt to the most recent debt).
- The balance of the arrears is then applied to the payment of taxable support (from the earliest debt to the most recent debt).

Complete Work Chart 225 to determine the deductible amount to be entered on line 225 of your return.

If the support-payment arrears you paid entitle you to a deduction and the portion of the arrears attributable to previous years is \$300 or more, enter that portion on line 276 of the return and check box 404. Also complete form TP-766.2-V, *Averaging of a Retroactive Payment, Support-Payment Arrears or a Repayment of Support*, and enclose it with your income tax return. We will calculate a tax adjustment for you that may reduce your income tax for the year.

To determine the amount of arrears that may give rise to a tax adjustment, subtract the deductible support that you paid for the current taxation year from the amount entered on line 5 of Work Chart 225.

Complete the table in section 3.3.3 to calculate the support-payment arrears owing at the end of the year.

Repayment of support

If, further to a court order, you received a repayment of support payments made in a previous year, and if you are claiming or previously claimed a deduction on line 225 of your income tax return in respect of the support payments made, you must enter the amount of the repayment on line 142 of your return for the year. However, this measure does not apply to a repayment of non-deductible child support (for example, non-taxable child support) or to a repayment provided for under a written agreement that has not yet been confirmed by an order.

Under certain conditions, you can ask us to determine whether it is to your advantage to deduct the portion of the repayment that relates to previous years from your taxable income and to adjust your income tax. To have us do the calculation, check box 404 on the return and enclose form TP-766.2-V with your return.

Proof of payment

A certain amount of time might elapse between the moment an order is made or varied and the moment we begin to collect your support payments. If the court authorizes you to make your payments directly to the recipient until that time, you must keep all proof of payment (such as receipts signed by the recipient, cashed cheques and proof of the transfer of funds) and all other documents related to the support (such as the order or written agreement made or varied by the court) in case we ask for them.



4 THE SUPPORT-PAYMENT COLLECTION PROGRAM

The support-payment collection program, which ensures that support payments are made regularly and on time, was introduced under the *Act to facilitate the payment of support*. It applies to all judgments rendered in Québec on or after December 1, 1995, that award support for the first time and, in certain cases, to judgments rendered before that date. The judgments must be rendered under the *Civil Code of Québec* or the *Divorce Act* (Statutes of Canada). Judgments rendered outside Québec are also subject to the Act if they are enforceable in Québec.

Under the program, we collect support payments from the payer and remit an amount twice a month to the recipient.

However, individuals covered by the program who do not want us to collect their support can apply for an exemption. If their application is accepted, the payer can make support payments directly to the recipient without us acting as an intermediary.

4.1 Exemption

Under certain conditions, the court may exempt the payer from the obligation of remitting support payments to us, allowing him or her to make the payments directly to the recipient.

The exemption ends, however, if any of the following situations arises:

- The recipient notifies us (by sending us form PPA-104-V, *Application for Cessation of Exemption*, by registered mail) that the payer has stopped paying the support, has failed to pay on time, or has not indexed the amount of support as required.
- The recipient and the payer make a joint application (by sending us form PPA-104-V by registered mail) to terminate the exemption.
- The payer fails to provide us with security within 30 days following the date of the judgment, or fails to maintain the security.
- The payer fails to establish a trust to guarantee the payment of support.
- The support obligation ends.

For more information, refer to document IN-900-V, *Support Payments: Application for Exemption*.

The court may allow the payer to make payments directly to the recipient for a period not exceeding four months, from the time the judgment is rendered until we take charge of the file. Proof of payments made must be kept for presentation on request.



4.2 Collection of support

We can collect support payments either by source deductions or by payment order. If necessary, both methods can be used at the same time.

4.2.1 Source deductions

Where the payer receives amounts, such as a salary, on a regular or periodic basis, we collect the support payments through source deductions. A notice is sent advising the employer that support payments are to be deducted from the income of the employee (the payer). The employer must withhold the amounts indicated on the notice as long as the payer remains an employee and is required to pay support. A copy of the notice is also sent to the payer.

The amounts subject to source deductions include:

- salaries, wages and other remuneration, including vacation pay;
- fees or advances on remuneration, fees or profits;
- benefits granted under a pension plan or benefit plan;
- disability benefits paid under a health or accident insurance plan;
- Employment Insurance benefits or benefits paid under a supplementary unemployment benefit plan;
- amounts paid under a profit-sharing plan;
- retiring allowances and severance pay.

We determine the amount that will be deducted at source on the basis of the support payments (and, if applicable, the arrears and charges) that the payer is required to pay. The amount withheld must not exceed the seizable portion of the payer's income.

For more information on source deductions, refer to document IN-902-V, *Support Payments: Source Deductions*.

4.2.2 Payment order

We send you a payment order if you are a payer:

- who earns no amount from which support payments can be deducted at source (for example, you are self-employed);
- for whom the amount deducted at source does not cover the full amount of support payable; or
- who asks to pay by payment order instead of through source deductions (such requests are not accepted if you owe arrears of support).

If this method is used to collect support, the payer must provide sufficient security to guarantee support payments for one month. Security must be provided throughout the time that the payment-order method is used.



4.3 Payment of support

We pay the support collected from the payer (including arrears, if applicable) to the recipient on the 1st and 16th of each month. Payments can be made by direct deposit or cheque. To have support payments deposited directly in his or her bank account, the recipient must register for direct deposit, either:

- by using the **Register for Direct Deposit of Support Payments** online service; or
- by filing a *Request for Direct Deposit of Support Payments* (form PPZ-109-V) with us.

To get information about the support payments you receive (as a recipient) or make (as a payer) or see correspondence concerning your support-payment file, you can use the **View a Support-Payment File** online service.

For more information, see document IN-901-V, *The Payment of Support*.

4.4 End of support collection

We cease to collect child or spousal support payments from the payer if he or she is granted an exemption from making support payments through us or when the support obligation ends.



5 LEGAL OR EXTRA-JUDICIAL FEES

As the recipient or payer of support, you can deduct, on line 250 of your income tax return, the legal or extra-judicial fees you paid:

- to obtain a decision regarding your initial right to receive support, to have the support collected or to revise your right to receive support;
- to obtain a decision regarding your initial obligation to pay support or to revise your obligation to pay support.

However, for such fees to be deductible, **all** of the following conditions must be met:

- You paid them for non-taxable or non-deductible payments or for support payments that you were required to include in your income (line 142) or could deduct from your income (line 225).
- You were not reimbursed for them.
- You are not entitled to be reimbursed for them.
- You did not deduct them in an income tax return for a previous year.
- You were required to pay them under an order of a competent court, and they were incurred by you, by your spouse or former spouse or by the father or mother of your child.

You **cannot** deduct legal or extra-judicial fees incurred in order to obtain a judgment of divorce or separation or a written separation agreement.

6 RESUMED COHABITATION

If you and your spouse or former spouse resumed living together during the year, the payments made in the year, before you resumed living together, may be deducted from the payer's income and must be included in the recipient's income for that year, provided they are taxable (that is, not subject to the non-taxation measures).



7 TAX CREDITS

If you submitted a *Source Deductions Return* (form TP-1015.3-V) to your employer before your separation, you will have to complete and submit another copy of the form, to ensure that your employer accounts for your new situation when calculating source deductions of Québec income tax. Form TP-1015.3-V must be completed within 15 days after an event that results in a reduction of the amounts indicated on your last TP-1015.3-V form.

If you are an employee and you receive support payments that you must include in your income, you may request that an additional amount of income tax be withheld from your salary or wages, in order to avoid having a balance payable when you file your income tax return. To exercise this option, submit a duly completed copy of one of the following forms to your employer:

- form TP-1017-V, *Request to Have Additional Income Tax Withheld at Source*
- form TP-1015.3-V, *Source Deductions Return*

On the other hand, if you are an employee who is required to make periodic payments of deductible support, you must submit a duly completed copy of form TP-1015.3-V to your employer in order to obtain a reduction in your source deductions of income tax.

If, pursuant to the *Act to facilitate the payment of support*, or pursuant to a court order (seizure of property in the hands of a third person), your employer is required to collect support payments by withholding an amount from your salary or wages, you must complete form TP-1015.3-V in order to obtain a reduction in your source deductions of income tax.

Order made or written agreement entered into after April 30, 1997

Child support payments made under an order made or a written agreement entered into after April 30, 1997, are not deductible from the payer's income. Consequently, an application for a reduction in source deductions of income tax may not be submitted with respect to such payments.

However, it is possible to file such an application if you pay spousal support, because such payments continue to be deductible from the payer's income. Simply submit a duly completed copy of form TP-1015.3-V to your employer in order to obtain a reduction in your source deductions of income tax.

7.1 Amount for a person living alone

Amount for a person living alone

You can claim a non-refundable tax credit if, throughout the year, you maintained and ordinarily resided in a dwelling in which you lived:

- alone; or
- only with one or more people under 18, or one or more of your children, grandchildren or great-grandchildren 18 or older who were full-time students pursuing vocational training at the secondary level or post-secondary studies for which they received an RL-8 slip with an amount in box A.

Additional amount for a person living alone (single-parent family)

You can claim an additional non-refundable tax credit if you are entitled to the amount for a person living alone and you meet both of the following conditions:

- At some time during the year, you lived with a child aged 18 or over who can transfer to you an amount for a child 18 or over enrolled in post-secondary studies or could have transferred such an amount to you had he or she not earned income.



- For the month of December of the year concerned, you were not entitled to a family allowance payment from Retraite Québec.

For more information, see the instructions for line 361 in the guide to the income tax return (TP-1.G-V).

7.2 Amount for dependants and amount transferred by a child 18 or over enrolled in post-secondary studies

Amount for a child under 18 enrolled in post-secondary studies

You could be entitled to a non-refundable tax credit if, during the year, you had a dependent child who was under 18 throughout the year and was a full-time student pursuing vocational training at the secondary level or post-secondary studies.

For more information, see the instructions for line 367 in the guide to the income tax return (TP-1.G-V).

Amount transferred by a child 18 or over enrolled in post-secondary studies

If, during the year, you were the father or mother of a child who was 18 or over on December 31 of the year, your child can transfer to you an amount representing the recognized parental contribution to his or her education, provided he or she:

- was a full-time student enrolled in vocational training at the secondary level or in post-secondary studies; and
- completed at least one term that he or she began in the year.

For more information, see the instructions for line 367 in the guide to the income tax return (TP-1.G-V).

Amount for other dependants

Under certain conditions, you can claim a non-refundable tax credit if you had a dependent child in the year.

For more information, see the instructions for line 367 in the guide to the income tax return (TP-1.G-V).

7.3 Tax credit for childcare expenses

The tax credit for childcare expenses, intended to benefit families, is based on your family income, that is, your income and that of your spouse on December 31, if applicable.

To be entitled to the tax credit, you or your spouse on December 31, if applicable, must meet the conditions and file Schedule C when you file your income tax return. Under certain conditions, you may also be entitled to receive advance payments of the tax credit.

If you separated from your spouse during the year, see the definition of “spouse on December 31” on page 7 to determine whether or not you are considered to have a spouse for purposes of the tax credit.

For more information, refer to the examples in the instructions for line 12 and the instructions for line 455 in the guide to the income tax return (TP-1.G-V). To find out what expenses qualify for the tax credit, see document IN-103-V, *Refundable Tax Credit for Childcare Expenses*.



8 PROPERTY TRANSFERS AND RRSP CONTRIBUTIONS

8.1 Property transfers

If an individual (the transferor) transfers property, directly or indirectly, to his or her spouse or to a person who subsequently becomes his or her spouse, both the transferee and the transferor may be liable for certain amounts of income tax that the transferor alone would otherwise have had to pay.

However, the transferor is not liable for income tax on income from the transferred property (or property substituted for the transferred property) if the income is attributable to the period during which the transferor and the transferee were living separate and apart further to the breakdown of their relationship. Similarly, the transferor is not liable for income tax on a capital gain resulting from the disposition of the transferred property (or property substituted for it) if the disposition took place at a time when the transferor and the transferee were living separate and apart further to the breakdown of their relationship.

If the transfer was made in settlement of a right resulting from a marriage, civil union or de facto union, see guide IN-120-V, *Capital Gains and Losses*.

8.2 RRSP contributions

As a rule, if an individual makes contributions or transfers certain amounts to his or her spouse's registered retirement savings plan (RRSP), and if the spouse withdraws amounts from the plan, the individual may be required to include, in his or her income for the year of the withdrawal, the amount withdrawn by the spouse. The maximum amount to be included in the individual's income is the total of the contributions he or she made to the RRSP during the year of the withdrawal and the previous two years.

This measure does not apply if, at the time of the withdrawal, the individual and his or her spouse are living separate and apart because of the breakdown of their relationship. This means that if, following a divorce or separation, your former spouse withdraws amounts from an RRSP of which he or she is the annuitant and to which you contributed, the amounts withdrawn must be included in his or her income.

8.3 Withdrawal of funds from an RRSP further to the partition of family patrimony

Amounts that spouses accumulate in RRSPs during their marriage are part of the family patrimony, which must be divided in the event of a divorce or judicial separation, or if the marriage is annulled. Where, following the partition of the family patrimony, one of the spouses withdraws all or a portion of the amounts accumulated in his or her RRSP, the amounts withdrawn must be included in his or her income.

It is not the division of amounts accumulated in an RRSP that has tax consequences, but rather the withdrawal of the amounts obtained as a result of the partition of the family patrimony.



8.4 Transfer of funds in an RRSP, RRIF or a PRPP/VRSP

An individual may, under certain conditions, transfer funds from his or her registered retirement savings plan (RRSP), registered retirement income fund (RRIF) or pooled registered pension plan (PRPP), including a voluntary retirement savings plan (VRSP), to the RRSP, RRIF or PRPP/VRSP of his or her spouse or former spouse, without the transferred amount being subject to income tax.

Specifically, the following can be transferred:

- the value of property held in an unmaturing RRSP that you transferred directly to another RRSP or to a RRIF in the name of your spouse or former spouse;
- the value of property held in a RRIF that you transferred directly to another RRIF or to an RRSP in the name of your spouse or former spouse;
- single payments made under a PRPP that were transferred directly to another PRPP, to a registered pension plan (RPP), a VRSP, an RRSP or a RRIF in the name of your spouse or former spouse; and
- single payments made under a VRSP that were transferred directly to another VRSP, to an RPP, a PRPP, an RRSP or a RRIF in the name of your spouse or former spouse.

In order for such a transfer to be made, all the following conditions must be met:

- The transfer is made further to an order or a judgment of a competent court or a written separation agreement concerning the partition of property between the transferor and his or her spouse or former spouse.
- The property is partitioned in settlement of rights arising out of the relationship, or out of the breakdown of the relationship.
- If the property transferred is from an RRSP or a PRPP/VRSP, the transferor and his or her spouse or former spouse are living separate and apart at the time of the transfer because of the breakdown of their relationship.

Such transfers must be made directly between the issuers of the plans concerned. In this case, the transferred amount need not be reported in the income tax return of the transferor or in that of his or her spouse or former spouse, and no deduction in respect of the transfer can be claimed.

8.5 Transfer of funds in an RPP or a DPSP

An individual may transfer a single payment from his or her RPP or deferred profit-sharing plan (DPSP) to the RPP, DPSP, RRSP, VRSP or RRIF of his or her spouse or former spouse, without the transferred amount being subject to income tax, provided the first two conditions listed in section 8.4 are met.

Such transfers must be made directly by the administrator of the individual's plan to the administrator of the spouse or former spouse's RPP or DPSP or to the issuer of the spouse or former spouse's RRSP, PRPP or RRIF. In this case, the amount transferred need not be reported in the income tax return of the transferor or in that of his or her spouse or former spouse, and no deduction in respect of the transfer can be claimed.



TO CONTACT US

Online

revenuquebec.ca



By telephone

Individuals and individuals in business

Monday to Friday: 8:30 a.m. to 4:30 p.m.

Québec City

418 659-6299

Montréal

514 864-6299

Elsewhere

1 800 267-6299 (toll-free)

Businesses, employers and agents for consumption taxes

Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.

Wednesday: 10:00 a.m. to 4:30 p.m.

Québec City

418 659-4692

Montréal

514 873-4692

Elsewhere

1 800 567-4692 (toll-free)

Complaints – Bureau de la protection des droits de la clientèle

Monday to Friday: 8:30 a.m. to noon and 1:00 p.m. to 4:30 p.m.

Québec City

418 652-6159

Elsewhere

1 800 827-6159 (toll-free)

Individuals with a hearing impairment

Montréal

514 873-4455

Elsewhere

1 800 361-3795 (toll-free)

By mail

Individuals and individuals in business

Montréal, Laval, Laurentides, Lanaudière and Montérégie

Direction principale des relations avec la clientèle des particuliers

Revenu Québec

C. P. 3000, succursale Place-Desjardins

Montréal (Québec) H5B 1A4

Québec City and other regions

Direction principale des relations avec la clientèle des particuliers

Revenu Québec

3800, rue de Marly

Québec (Québec) G1X 4A5

Businesses, employers and agents for consumption taxes

Montréal, Laval, Laurentides, Lanaudière, Montérégie, Estrie and Outaouais

Direction principale des relations avec la clientèle des entreprises

Revenu Québec

C. P. 3000, succursale Place-Desjardins

Montréal (Québec) H5B 1A4

Québec City and other regions

Direction principale des relations avec la clientèle des entreprises

Revenu Québec

3800, rue de Marly

Québec (Québec) G1X 4A5

Complaints – Bureau de la protection des droits de la clientèle

Revenu Québec

3800, rue de Marly

Québec (Québec) G1X 4A5

2020-03