

Capital Tax Elimination for Manufacturing and Resource Activities 6029

About this Notice

Information Notice 6027, dated March 2008, provides details of the measures announced in the 2008 Ontario Budget. This notice provides additional information and guidance for taxpayers on the measure related to the retroactive elimination of the capital tax effective January 1, 2007, for Ontario companies primarily engaged in manufacturing and resource activities.

Background

The 2007 Economic Outlook and Fiscal Review proposed to eliminate the Capital Tax effective January 1, 2008, for Ontario companies primarily engaged in manufacturing and resource activities.

In its 2008 Budget, the government proposed to retroactively eliminate the Capital Tax one year earlier, effective January 1, 2007, for these companies.

The proposed measure received legislative authority through Bill 44, *Budget Measures and Interim Appropriation Act, 2008*, which received Royal Assent on May 14, 2008.

Eligibility requirements

The capital tax elimination for manufacturing and resource activities applies to corporations whose Ontario manufacturing labour costs represent 50 per cent or more of their total Ontario labour costs.

For corporations whose Ontario manufacturing labour costs comprise less than 50 per cent, but more than 20 per cent of their total Ontario labour costs, the capital tax is reduced proportionately on a straight-line basis. For example, a corporation whose Ontario manufacturing labour cost comprises 35 per cent of its total Ontario labour cost would have one-half of its capital tax eliminated (as 35 per cent is midway between 20 per cent and 50 per cent).

The capital tax elimination for 2007 applies to a qualifying corporation if it, or a successor corporation, had employees reporting to a permanent establishment in Ontario on March 25, 2008. A corporation, or a successor corporation, is considered to have a permanent establishment in Ontario on March 25, 2008 if, before that date, the corporation, or the successor corporation, has remitted to the Receiver General for Canada amounts deducted or withheld under subsection 153(1) of the *Income Tax Act (Canada)* (ITA) from payments made in February or March of 2008 to its employees of that permanent establishment.

Eligibility requirements (cont'd)

Ontario manufacturing labour cost

A corporation's **Ontario manufacturing labour cost** is defined in subsection 72.1(5) of the *Corporations Tax Act* (CTA) and subsection 83.1(4) of the *Taxation Act, 2007* (TA). These provisions define a corporation's Ontario manufacturing labour cost for a taxation year as the amount that would be its cost of manufacturing and processing labour for the year under Part LII (Canadian Manufacturing and Processing Profits) of the regulations made under the ITA if,

- the activities described in paragraphs (a), (b), (e), (f), (g) and (l) of the definition of **manufacturing or processing** in subsection 125.1 (3) of that Act were included in determining what constituted qualified activities under Part LII of those regulations;
- references in Part LII of those regulations to qualified activities carried out in Canada were read instead as references to qualified activities carried out in Ontario;
- section 5203 of those regulations did not apply; and
- paragraph (f) of the definition of **cost of labour** in section 5204 of those regulations did not apply.

Corporations should note that this calculation includes farming, fishing and mining labour costs which are not included in manufacturing labour cost under the ITA. The amount so calculated cannot exceed the total Ontario labour cost.

Total Ontario labour cost

A corporation's **total Ontario labour cost** for a taxation year is defined in subsection 72.1(6) of the CTA and subsection 83.1(5) of the TA. These provisions define a corporation's total Ontario labour cost for a taxation year as the amount that would be its cost of labour for the year under Part LII of the regulations made under the ITA if,

- the only salaries and wages taken into account for the purposes of paragraphs (a) and (b) of the definitions of **cost of labour** in sections 5202 and 5204 of those regulations and for the purposes of paragraph (a) of the definitions of **cost of manufacturing and processing labour** in those sections were salaries and wages paid or payable to employees of permanent establishments situated in Ontario;
- the reference in paragraph (d) of the definition of **cost of labour** in section 5202 of those regulations to an active business carried on outside Canada were read instead as a reference to an active business carried on outside Ontario; and
- the reference in paragraph (e) of the definition of **cost of labour** in section 5204 of those regulations to an active business carried on outside Canada were read instead as a reference to an active business carried on outside Ontario.

The total Ontario labour cost does not include amounts which are included in the **cost of capital** for the year for the purpose of the Manufacturing and Processing Profits credit calculation or amounts which are related to an active business carried on by the corporation outside Ontario.

Making a claim

Corporations claiming the capital tax reduction for the 2007 and/or 2008 taxation years must complete and sign the **Claim Form for Capital Tax Elimination for Manufacturing and Resource Activities**.

The form is to be used only for taxation years ending after December 31, 2006 and before January 1, 2009.

To ensure quick identification and processing of your claim form please note the following:

- If you are filing a paper return, place the claim form on top of your CT23.
- If you are filing a return on CD-ROM or diskette (DFILE), place the claim form on top of the electronic filing certification form.
- If you are filing an amended return, place the claim form on top of your amended CT23.
- Enter the amount claimed from line or of the claim form at line of page 12 the CT23, where possible.
- If you already have an amount at line (e.g., if you are claiming a specified tax credit), add the capital tax reduction claim amount to the amount already in line .

Send your return and completed claim form to:

Ministry of Revenue
33 King Street West
PO Box 620
Oshawa ON L1H 8E9

If you are submitting the claim form without an amended return, you should send it to the following address:

Ministry of Revenue
33 King Street West
PO Box 622
Oshawa ON L1H 8E9

What happens after a corporation makes a claim?

When we receive the completed claim form, we will review your claim based on the information provided and recalculate your capital tax liability. Once your claim is processed, a Notice of Reassessment will be mailed to you showing the revised capital tax liability.

Please note that if your claim is being assessed (or reassessed) prior to the fall implementation of the other measures announced in the 2008 Ontario Budget, the capital tax will still be assessed (or reassessed) based on the old capital tax rates. However, the capital tax reduction will be calculated based on the new capital tax rate. Therefore, there could potentially be a capital tax liability reflected in your assessment (or reassessment) until the new rates are implemented in October. The automatic reassessment generated at that time would extinguish any remaining capital tax liability.

As a simple illustration, if capital tax previously assessed was \$285 ($\$100,000 \times 0.285\%$), the capital tax reduction for a corporation that is entitled to the full deduction would be calculated as \$225 ($\$100,000 \times 0.225\%$), thus leaving a capital tax liability of \$60 (capital tax of \$285 less capital tax reduction of \$225). When the automatic reassessment is subsequently generated, the capital tax will be recalculated as \$225 ($\$100,000 \times 0.225\%$). Therefore, the capital tax liability would be reduced to \$0 (capital tax of \$225 less capital tax reduction of \$225).

A refund cheque will be issued to your corporation in respect of the overpayment of capital tax, including interest, unless the corporation has a liability owing under the CTA or other statute administered by the Ministry of Revenue, in which case the refund will first be applied to reduce the taxes owing. Interest on the tax refund at the rate prescribed in the Regulations will be calculated and allowed daily from the balance of tax due date until the date of the reassessment.

For More Information

Telephone enquiries

Please contact the Ministry Information Centre between 8:15 am and 5:00 pm toll free from anywhere in Canada.

English	1 800 263-7965 (Canada and U.S.)
French	1 800 668-5821 (Canada and U.S.)
Teletypewriter (TTY)	1 800 263-7776 (Ontario)

Internet enquiries

This publication and various other English and French bulletins published by the Ministry of Revenue may be obtained online at www.ontario.ca/revenue

Information on the **Single Administration of Ontario Corporate Tax** by the Canada Revenue Agency may be obtained at www.cra-arc.gc.ca