Executive Council

Nova Scotia

A certified copy of an Order in Council dated November 3, 2026

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Rachel L. Jones
Registrar of Regulations
Province of Nova Scotia

2026-373

The Governor in Council on the report and recommendation of the Minister of Finance and Treasury Board dated October 7, 2026, and pursuant to Section 38B of Chapter 217 of the Revised Statutes of Nova Scotia, 1989, the *Income Tax Act*, is pleased to make new regulations respecting the fertility and surrogacy tax credit, in the form set forth in Schedule "A" attached to and forming part of the Report and Recommendation, effective on and after January 1, 2027.

Certified to be a true copy

Tracey Taweel
Clerk of the Executive Council

Approved by Order in Council
2026-373 **dated**
November 3, 2026

Tracey Taweel
Clerk of the Executive Council

Schedule "A"

Regulations Respecting a Tax Credit for Fertility and Surrogacy made by the Governor in Council under Section 38B of Chapter 217 of the Revised Statutes of Nova Scotia, 1989, the *Income Tax Act*

Interpretation

Citation
1 These regulations may be cited as the *Fertility and Surrogacy Tax Credit Regulations*.

Definitions
2 In these regulations,

"Act" means *Income Tax Act*;

"fertility or surrogacy medical expense" means a medical expense that meets the criteria in Section 6;

"Minister of Finance and Treasury Board" means the Minister of Finance and Treasury Board for the Province;

"tax credit" means the tax credit for a fertility or surrogacy medical expense determined in accordance with Section 38B of the Act;

"tax return" means an individual income tax and benefit return filed with the Canada Revenue Agency for the taxation year.

Designated persons
3 Anything required to be done by the Minister of Finance and Treasury Board under these regulations may also be done by a person or persons in the public service designated by the Minister of Finance and Treasury Board.

Payment of Tax Credit

Deemed overpayment of tax
4 **(1)** An individual who is eligible for and approved for the tax credit is deemed to

have made an overpayment of tax under the Act in an amount equal to the tax credit determined under Section 38B of the Act and these regulations, and the Minister must pay the tax credit to the individual in accordance with this Section.

(2) The Minister of Finance and Treasury Board must not pay a tax credit if, in the Minister's opinion, any of the following apply:

(a) information provided by an individual is false, misleading or fails to disclose a material fact;

(b) an individual has not complied with a provision of the Act or these regulations or the spirit and intent of the Act or these regulations.

(3) If both an individual and their spouse or common law partner submit an application for a tax credit, the total maximum amount of fertility or surrogacy medical expenses that may be claimed in a taxation year is $20,000.

(4) A tax credit may be paid by cheque, direct deposit or another method approved by the Minister of Finance and Treasury Board.

(5) If an individual's application for a tax credit results in an amount that is less than $2.00, a tax credit payment will not be made.

Determining Eligibility

Eligibility for tax credit

5 All of the following are prescribed as the criteria an individual must meet to be eligible for the tax credit for a taxation year:

(a) the individual filed a tax return for the taxation year as a resident of the Province;

(b) the individual has fertility or surrogacy medical expenses that meet the criteria in Section 6.

Criteria for fertility or surrogacy medical expense

6 A medical expense must meet all of the following criteria to be considered a fertility or surrogacy medical expense for a taxation year under Section 38B of the Act:

(a) it is a medical expense as defined under any of the following provisions of the Federal Act:

(i) 118.2(2)(v),

(ii) 118.2(2.2),

(iii) 118.2(2.21);

(b) it was in respect of goods or services provided entirely in Canada;

(c) it is reasonable in the circumstances;

(d) if it relates to services rendered by a medical practitioner in another jurisdiction, the medical practitioner who provided the services would be considered a medical practitioner under paragraph 118.4(2)(a) of the Federal Act if they practised in the Province;

(e) it does not form part of another application for the tax credit by the applicant's spouse or common law partner for the taxation year;

(f) it is incurred by the applicant or their spouse or common law partner, donor or surrogate;

(g) it is paid by the applicant or their spouse or common law partner in the taxation year;

(h) it was not claimed as a fertility or surrogacy medical expense by the applicant or their spouse or common law partner for a prior taxation year;

(i) it is not considered a reverse procedure, including a reverse vasectomy or reverse tubal ligation, or an expense related to a reverse procedure.

Applications

Application for tax credit

7 **(1)** An application for a tax credit must be made no later than the following applicable date:

(a) 18 months after the end of the taxation year, for taxation years after December 31, 2024;

(b) December 31, 2026, for taxation years after December 31, 2021 and before January 1, 2025.

(2) An application for a tax credit must be in a form acceptable to the Minister of Finance and Treasury Board and must include all of the following information:

(a) the applicant's social insurance number;

(b) the applicant's birth date;

(c) a copy of the applicant's tax return for the taxation year, including the T1 General Form and Form NS428;

(d) a copy of the applicant's most recent notice of assessment or reassessment for the taxation year issued by the Canada Revenue Agency;

(e) details on all fertility or surrogacy medical expenses including all of the following:

(i) service provider name,

(ii) location of the service provider,

(iii) description of the expense or service provided,

(iv) amount paid during the taxation year for the fertility or surrogacy medical expense by the applicant or their spouse or common law partner,

(v) amount of the fertility or surrogacy medical expense reimbursed by a third party,

(vi) copies of all invoices or receipts detailing the services and amounts paid;

(f) a list from the service provider detailing all appointment dates, if any travel expenses are being claimed;

(g) if the applicant had a spouse or common-law partner during the taxation year,

(i) the name, birth date and social insurance number of the spouse or common law partner, and

(ii) a copy, in a form acceptable to the Minister of Finance and Treasury Board, of the spouse's or common law partner's completed consent statement, consenting to the use of their personal information on their application form;

(h) if the applicant used a donor or surrogate during the taxation year,

(i) the name, birth date and social insurance number of the donor or

surrogate,

(ii) a copy, in a form acceptable to the Minister of Finance and Treasury Board, of the donor's or surrogate's completed consent statement, consenting to the use of their personal information on their application form, and

(iii) a copy, in a form acceptable to the Minister of Finance and Treasury Board, of the executed donor or surrogate contract;

(i) any additional information the Minister of Finance and Treasury Board may require to ensure the requirements of the Act and these regulations and the spirit and intent of the Act and these regulations are met.

Reassessment of application

8 **(1)** If an applicant's eligibility circumstances change after submitting an application, the applicant may request that their previously submitted application be reassessed no later than the earlier of the following:

(a) 6 months after the date the notice of reassessment was issued;

(b) 24 months after the end of the taxation year.

(2) If an applicant has additional fertility or surrogacy medical expenses to claim for a taxation year, the applicant may request that their previously submitted application be reassessed no later than 24 months after the end of the taxation year.

Lapsed application for tax credit

9 **(1)** In this Section,

"lapsed", in relation to an application for a tax credit, means that the Minister of Finance and Treasury Board has not issued a tax credit within 6 months of the date that the individual applied for the tax credit because of a lack of communication or information from the applicant.

(2) A tax credit application that has lapsed is deemed to have been withdrawn by the applicant.

(3) An individual whose application has lapsed may request that their application be reactivated no later than 18 months after the end of the taxation year.

Recovering tax credit payment

10 **(1)** Subject to subsection (2), an individual who receives a tax credit to which they are

not entitled or in an amount greater than the amount to which they were entitled must immediately repay the amount or the excess amount to the Minister of Finance and Treasury Board.

(2) If the Minister of Finance and Treasury Board determines that recovering an amount owed by an individual under subsection (1) would cause hardship to the individual, the Minister of Finance and Treasury Board may accept a lesser amount that they consider reasonable in the circumstances and must notify the individual of that determination.

Tax credit is assignable and not exempt from seizure

11 A tax credit is assignable to the Province and subject to seizure or garnishment by the Province.

Effect of death of individual

12 If an individual who is eligible for a tax credit dies before the tax credit for a taxation year is paid, the Minister of Finance and Treasury Board must pay the tax credit to the individual's estate.

Debt due to Crown

13 Any amount required to be paid to the Minister of Finance and Treasury Board under these regulations is a debt due to the Crown in right of the Province and may be recovered in a court.

Information and Records

Sharing of information

14 **(1)** The Minister of Finance and Treasury Board may enter into an information-sharing agreement with any of the following for the purpose of administering the Act and these regulations:

(a) the Government of Canada or a department or agency of that government;

(b) a public body, as defined in the *Freedom of Information and Protection of Privacy Act*;

(c) any additional persons or groups of persons the Minister of Finance and Treasury Board considers necessary.

(2) The Minister of Finance and Treasury Board may use any personal information shared under subsection (1) to assess the individual's eligibility for the tax credit.

Audit and retention of records

15 **(1)** To assess eligibility and compliance with these regulations,

(a) at the discretion of the Minister of Finance and Treasury Board, an audit of information provided by an individual may be performed; or

(b) a person who previously provided information or documents in respect of these regulations must provide any additional information requested by the Minister of Finance and Treasury Board.

(2) A person who provides information in respect of these regulations must retain the information for at least 7 years after the end of the taxation year to which the information relates.

Use of information by Minister of Finance and Treasury Board

16 The Minister of Finance and Treasury Board may use the information collected under the Act and these regulations to analyse and review the tax credit for policy purposes.