



BILL NO. 109

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
71 Elizabeth II, 2022*

**An Act to Amend Chapter 217
of the Revised Statutes, 1989,
the Income Tax Act,
Respecting a Fertility and Surrogacy Rebate**

CHAPTER 15
ACTS OF 2022

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
APRIL 22, 2022**

The Honourable Michelle Thompson
Minister of Health and Wellness

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 217
of the Revised Statutes, 1989,
the Income Tax Act,
Respecting a Fertility and Surrogacy Rebate**

Be it enacted by the Governor and Assembly as follows:

1 Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, is amended by adding immediately after Section 38A the following Section:

Subdivision kb - Fertility and Surrogacy Rebate

38B (1) In this Section,

- (a) “donor” means a donor of sperm, an ovum or an embryo who satisfies any additional conditions that may be prescribed in the regulations;
- (b) “fertility care” means health care related to fertility that satisfies the criteria prescribed in the regulations;
- (c) “intended parent” means a person who
 - (i) has entered into a surrogacy arrangement with a surrogate and to whom the surrogate intends to surrender a child the surrogate has carried in utero, or
 - (ii) uses genetic material from a donor to conceive a child the person or the person’s spouse or common-law partner will carry in utero;
- (d) “medical expense” means a medical expense as determined under subsection 118.2(2) of the Federal Act;
- (e) “surrogacy arrangement” means an agreement or arrangement between one or two intended parents and a surrogate;
- (f) “surrogacy or donor expense” means a medical expense incurred by a surrogate or donor and that satisfies any additional criteria that may be prescribed in the regulations;
- (g) “surrogate” means a person who, with the intention of surrendering the child at birth to an intended parent or parents,
 - (i) carries an embryo or foetus that was conceived by means of an assisted reproduction procedure and derived from the genes of a donor or donors, and
 - (ii) meets any additional criteria that may be prescribed by the regulations.

(2) For a taxation year ending after December 31, 2021, an individual who makes a claim under this Section is considered to have paid, at the end of the

year, on account of tax payable under this Section for the year, an amount determined by the formula

$$A \times B$$

where

A is 40%; and

B is the least of

(a) \$20,000;

(b) the total of all amounts each of which is an amount paid in the taxation year by the individual, or by the individual's spouse or common-law partner, that is a medical expense for fertility care in respect of the individual or the individual's spouse or common-law partner that has not otherwise been reimbursed; and

(c) zero, where a claim under this subsection for the taxation year has been made by the individual's spouse or common-law partner.

(3) For a taxation year ending after December 31, 2021, an individual who is an intended parent may make an application for a rebate of a surrogacy or donor expense in the amount determined by the formula

$$A \times B$$

where

A is 40%; and

B is the least of

(a) \$20,000;

(b) the total of all amounts each of which is an amount paid in the taxation year by the individual, or by the individual's spouse or common-law partner, that is a surrogacy or donor expense for which the individual or the individual's spouse or common-law partner has not been otherwise reimbursed; and

(c) zero, where an application for a rebate under this subsection for the taxation year is made by the individual's spouse or common-law partner.

(4) The total of a claim under subsection (2) and a rebate under subsection (3) by an individual, the individual's spouse or common-law partner may not exceed \$8,000 for a taxation year.

(5) The Governor in Council may make regulations

(a) establishing criteria for an application for the rebate of a surrogacy expense;

(b) prescribing those matters that are required or permitted to be prescribed;

(c) defining any word or expression used but not defined in this Section;

(d) further defining any word or expression defined in this Section;

(e) respecting any other matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(6) A regulation made pursuant to this Section may be made retroactive to a day not earlier than January 1, 2022.
